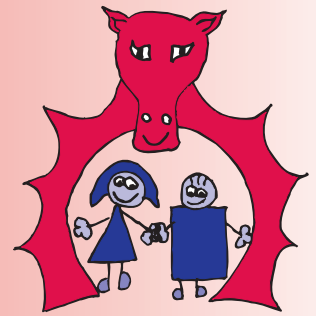


Children don't complain...



Comisiynydd Plant Cymru
Children's Commissioner for Wales

The Children's Commissioner for Wales' Review

of the operation of complaints and representations and whistleblowing procedures,
and arrangements for the provision of children's advocacy services
in local education authorities in Wales

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"Children don't make complaints – parents do!"

Director of Education

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Chapter 1 Introduction

Background and Rationale

The appointment of a Children's Commissioner for Wales was the first recommendation of the Waterhouse Report, *Lost in Care - Report of the Tribunal of Inquiry into the Abuse of Children in Care in the Former County Council Areas of Gwynedd and Clwyd since 1974 (2000)*, which reported on the inquiry into abuse in children's homes in North Wales. Sir Ronald Waterhouse recommended that the Commissioner's duties should include ensuring that children's rights and welfare were safeguarded through monitoring the operation of children's complaints and local authority social services whistleblowing procedures, and the arrangements for children's advocacy. These recommendations were incorporated into the Care Standards Act 2000 and the Children's Commissioner for Wales Act 2001. The legislation extended the principle of review and monitoring of these provisions to all the regulated services to children and young people in Wales.

The terminology is significant, review and monitor suggest a different activity to that of inspect or audit. Review implies surveying, reconsidering and reflecting upon how services are provided, alongside and with the service provider. Monitor implies activities such as advising, checking, watching and supervising. The two sets of activities combine to provide a national opportunity to promote good practice, consider current arrangements, and make recommendations for improvement.

The decision to focus on local authority social services in our first Review, published as *Telling Concerns*, arose from the following considerations:

- The first and primary consideration was the statutory role that social services have in safeguarding and promoting the welfare of children in need. Social services not only represent a critical means of intervention into the lives of the most vulnerable children and young people, but also a crucial framework of educational and social opportunities that have a tremendous potential to expand the life chances of children.
- The statutory duties placed upon social services by the Children Act 1989 and their relatively early introduction of whistleblowing policies meant that they would have built a wealth of experience in operating complaints and representations and whistleblowing procedures.

Other departments of local authorities do not have the same statutory duties placed on them by the Children Act 1989 in relation to the way in which they handle complaints or the requirement to provide children's advocacy services. Nevertheless, as corporate parents, all local authority departments have the potential to affect children's lives in the services they provide.

It is important to understand how the spirit of the Waterhouse recommendations have been implemented in local authority departments other than social services and to obtain an overview of the ways in which complaints, representations, whistleblowing procedures and children's advocacy services operate. Transport, leisure services, housing and environment departments could all have been candidates for this Review – but education and learning was an obvious choice.

In *Telling Concerns* many recommendations were directed at local authorities and were, for the most part, accepted. Following that Review, practice guides were published which highlighted good practice examples throughout Wales. It was felt that a review of local education authorities would monitor how effectively these recommendations had been translated into practice within local authorities as a whole.

It is accepted that, for children and young people, a review of the arrangements made by schools would have been more of a priority. However, during this period, the Children's Commissioner for Wales held a public examination, the Clywch Examination, which considered complaints and whistleblowing procedures in a school setting. In the *Clywch Report*, the Commissioner

undertook to review schools' complaints procedures in 2005.

This Review will be of greatest use to policy makers if read in conjunction both with ***Telling Concerns*** and the ***Clywch report***. All reports are available on the Children's Commissioner for Wales' website.

Methodology

The Communications Team and the Policy and Service Evaluation Team met during the summer of 2003, to plan the involvement of children and young people in the Review.

Meetings were arranged with the Association of Directors of Education in Wales (ADEW), Estyn and the Welsh Local Government Association as well as the Schools Management Division of the National Assembly for Wales. The purpose of these meetings was to both inform and consult about the Review.

Each Director of Education was contacted in the middle of September 2003 and provided with details of the process of the Review. To assist advance planning, Directors were asked to nominate an officer to act as a single point of contact with this office and to coordinate the arrangements for the Review within their department.

To ensure consistency and to provide a basis for comparison, the overall format of the previous Review was adopted for the questionnaires –although the questions were amended in the light of the different statutory obligations of social services and local education authorities.

The questionnaires were circulated by email on 15th January 2004, as separate files for each of complaints and representation, whistleblowing and advocacy. Some hard copies of documents were requested and the date for return of these was 6th February 2004. The date for return of the completed questionnaires, again in electronic format, was 20th February 2004.

Every local education authority was visited between 1st March and 5th April 2004. The purpose of the meeting was to clarify and examine the responses and to provide opportunity for feedback from the local authorities about the process.

At the same time, other members of the Review team held seven workshops with ninety six children and young people from all areas of Wales. These involved a variety of approaches to both inform and enable children and young people to express their views and ideas. These are included throughout this Review.

A period of analysis followed, when the 2486 responses arising from the three questionnaires completed by the twenty-two local education authorities were collated and interpreted, and the views of children and young people were integrated. Chapters 2, 3 and 4 follow the format of the questionnaires on a question-by-question basis. Statistical data about the responses is provided along with analysis, comment and recommendations for change and improvement of service provision.

Comments on the Methodology

During ***Telling Concerns*** it was clear that some officers who completed the questionnaires may not have received the accompanying letter of explanation. It was for this reason that a nominated officer was requested as our single point of contact. This seemed to work well and the circulation of information and questionnaires in electronic format considerably reduced both the financial cost and the environmental impact of the review. Copies of our Practice Guides and other requested information was also provided to the nominated officers electronically.

The advantages of the electronic format to the Review team were great as it allowed export of the responses to a database for collation and analysis and made information available simultaneously in both our North and South Wales offices.

Many local authorities reported that they found the process of completing the questionnaires a helpful experience. It enabled them to reflect upon their current service arrangements and practice. Several local authorities commented that they realised during the process of the Review that there was a need to revise policy and procedure.

Our officers also found the Review informative and thought provoking. It enabled us to become more familiar with the work of local education authorities, the services they provide and also to understand something of the challenges they face. We would like to thank the officers of local education authorities both for their cooperation and hospitality during the review. We look forward to continuing work with them in the future.

Next Steps

The law places a duty on the Children's Commissioner for Wales to monitor the recommendations made in his reports. When there has been sufficient time to digest and consider the recommendations of this report, Chief Executive Officers of local authorities will be contacted to establish:

- whether the recommendations have been accepted;
- the plans for implementing the recommendations;
- the timescale for implementation.

Monitoring will be ongoing and the responses will be a matter of public record and open for inspection at Children's Commissioner for Wales offices.

Chapter 2 Complaints and Representations

Background and Introduction

Children and young people have a right to express their views whenever any decisions are being made that will affect their lives as well as the right to receive relevant background information and an explanation of the reasons for such decisions. These rights are enshrined in articles 12 and 13 of the United Nations Convention on the Rights of the Child.

The Children Act 1989 was written with the intention that it would dovetail with the articles of the United Nations Convention on the Rights of the Child. Article 12 of the Convention is reiterated in the Children Act 1989 at section 1 (3)(a) which applies whenever a court is called upon to determine any question about a child's upbringing or the administration of a child's property:

(3) In the circumstances mentioned in subsection (4), a court shall have regard in particular to-

(a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);

The right to express our views becomes particularly important when we perceive that things are going wrong or we are dissatisfied with a service. Any organisation needs to have a robust procedure in place that will allow those who use their services to tell them what they feel is wrong and also to allow a dialogue that will enable the organisation to learn how it might improve the services it offers. In many organisations this process is referred to as "quality improvement" but, within local authorities, more commonly and perhaps more negatively as "complaints and representations".

The Children Act 1989 placed a statutory duty on local authorities to establish a procedure within their social services departments for considering complaints and representations by or concerning children and young people who are looked after as a result of an assessment of need under part 3 of the Children Act 1989. Therefore, local authority social services children's services have some 14 years' experience of establishing a complaints and representation procedure for children and young people who are being looked after or in need and their representatives as referred to in part 3 of the Children Act .

The challenge presented to local authority social services was:

"... to develop a procedure which is understood and accepted by all involved: children, parents and their representatives, as well as the responsible authority's staff and the local authority's elected members."

Children Act 1989, Guidance and Regulations, Volume 3.
Family Placements, Chapter 10 para. 10.4

The complaints procedure was seen as a way of ensuring that children and young people could raise issues or matters of concern to them with confidence, and that they would be heard.

It was the existence of these statutory procedures that led the Children's Commissioner for Wales to focus on social services in his first Review, **Telling Concerns**.

That Review found, in general, that the procedures established within social services:

- provided children and young people with information about the complaints procedures.
- provided advocacy services to assist them in making a complaint.

- ensured that there was an independent element in the consideration of their complaint and within any subsequent appeals process.
- required the production of an annual report which allowed issues arising from complaints to be considered by those charged with making strategic or planning decision.

Sir William Utting's report, ***People Like Us. The Report of the Review of the Safeguards for children living away from home (1997)*** highlighted the effort that local authorities had put into establishing complaints procedures:

“Successive reports by English Social Services Inspectorate demonstrate steadily growing confidence and competence on the part of local authorities in implementing representations and complaints procedures.”

Utting Report para 18:13

However, Utting raised serious doubts about children's faith in the complaints process, based on comments from children and his committee's observations. He commented on the “tiny proportion of complaints that emanate from children” and that children's confidence in the complaints process is low.

Local education authorities are not under a statutory duty to establish similar complaints procedures except in relation to curriculum and religious education (see question 2, later).

Nevertheless, it was hoped that local education authorities had adopted what is unarguably good practice in the consideration of complaints from children and young people – indeed that local authorities would have ensured that this good practice was adopted within all of their directorates and departments.

In several local authorities in Wales, children's social services and education services form part of the same directorate. It is reasonable, therefore, to expect that children and young people only need to access and understand one procedure through which they can make complaints or representations about social services and education issues.

In ***Telling Concerns***, Recommendation 3.15 was that local authorities should go even further and establish a “one-stop-shop” approach to enable children and young people to make complaints or representations about any local authority service. The vision of this approach was a single point of contact for a child or young person to discuss an issue of concern about any one or more local authority services and, if necessary, obtain assistance to record a complaint from suitably trained and experienced officers of the local authority. This complaint could then be dealt with under whichever procedures apply according to the substance of the complaint. The outcome of the complaint and explanation for any decisions could be reported to the child or young person by the same officer who initially received the complaint. From the child or young person's viewpoint this would simplify the process – having made the complaint and received the outcome from this one-stop-shop.

A standardisation of the complaints process in this way would bring many benefits. However, as social services must still meet the statutory requirements of the Children Act 1989, any standard or centralised complaints procedures must meet those statutory requirements.

In March 2004, the Welsh Assembly Government convened a multi-agency working group - Complaints and Representations Advisory and Implementation Group (CRAIG) to contribute to the development of guidance that would assist local authorities to implement changes in legislation brought about by the Adoption and Children Act 2002 and the Health and Social Care (Community Health and Standards) Act 2003. The new guidance will build upon and replace ***The Children Act 1989 Guidance and Regulations, Volume 4 - Residential Care***, and will provide a common framework for handling complaints by local authority social services in Wales. It will cover complaints about services for children, young people and adults. The group has worked

and liaised closely with colleagues within NHS Wales engaged in the same activity - that is reviewing and revising the NHS guidance about complaints. The net result will be that the guidance in both agencies will correlate and dovetail. The Welsh Assembly Government says it is eager to see a seamless service on complaints operating across local authority and health services; the expectation is that there will be clear links established with complaints procedures in education.

Local authorities face a challenge in enabling children and young people to make a complaint or a representation. When read in conjunction with **Telling Concerns**, the analysis of the local education authorities' responses and the comments from children and young people included in this chapter will hopefully assist local education authorities to revise current policies and procedures.

Children and Young People on complaints and representations

No assumptions could be made as to the understanding, knowledge or experience of children and young people who received services from local education authorities. The work with children and young people around complaints fell into three categories:

1. Understanding and experience of complaints in general working towards an agreed definition
2. Experiences of making a complaint to the local education authority.
3. Barriers to children and young people making a complaint to the local education authority and solutions to overcome these barriers

Children and young people had many theories about the meaning of complaining and had a number of experiences to share. Their views were mixed: some feeling that complaining was seen as a negative act, particularly when the complaint came from a young person. These are some of the comments made when children and young people were asked about their understanding of the term "complaint":

"When you tell on somebody."

"When somebody bothers you and you speak up."

"When someone breaks property which doesn't belong to them, they complain."

"An issue that you're not happy about."

"Speaking out about something you don't like or want to change."

"Speak when something is wrong."

"Telling someone in authority when someone treats you unfairly."

"When someone has a problem with something or someone e.g. bus service."

"A moan about an issue."

"If something is not up to standards e.g. food."

"A procedure that people go through."

"You complain so it can be sorted out."

"When something is not right.."

"Someone grassing on someone..."

"When I don't think something is nice and I say so..."

"A complaint is when you are not happy..."

"When someone don't like what the other person is doing..."

"Not getting what you expected."

"Do something about it."

"If you want something done."

"When you're not happy with something."

Although there were a number of negative connotations to making a complaint e.g. "tell on", "a moan", "grassing", a number of the comments also recognised the positive side of making a complaint. Comments such as "speak", "speak up", "say so", "so it can be sorted out", "doing something about it", "if you want something done" imply there is an understanding amongst children and young people that the act of making a complaint can be something positive which leads ultimately to something being resolved or improved.

Other comments about their experiences of making a complaint about local education authority services included:

About school transport:

"Bus service. Nothing happened."

"Bus driver swearing. Nothing happened."

"Yes school transport, I complained to the teachers there was a big strike because there is no buses..."

About facilities in school:

"Lack of support in schools and college. It was brushed off."

"Yes School grounds and excluded pupils. I complained to the Head of Year and nothing was done."

"Yes some play facilities because there was nothing to do, they paid for playing facilities"

"The local education authority paid for playing facilities."

"Yes school toilets, I complained to the teacher because there is people smoking in the toilets it should be sorted out."

"I complained to the caretaker about mess at school. It improved after I left school."

"There was no lift in the school buildings. A lift was put in after a year."

Their experiences of making a complaint were varied and although some children and young people felt their complaint had been acted upon, in the main children and young people often felt ignored or not involved in the process that followed, both in an education setting and in other areas of their lives.

Some mutually agreed definitions of a complaint did emerge:

"When someone bothers you and you speak up."

"It's the start of a procedure that looks at an issue that someone might have with something or someone."

"A complaint is the first step to making things better by having the confidence or guts to speak out about something that's wrong or something that bothers you."

"You're unhappy with something or disagree with something and want action taken on it."

When the children and young people were asked who they would prefer to support them in making a complaint, they named their friends and family members as those they most trusted, although these were seen as "a witness" rather than in an advocacy role. A large majority of the children and young people felt that their complaint would not be taken seriously unless they were

supported by an adult - although one individual did say "it depends on what it is".

When asked, children and young people were very clear about the factors that would discourage them from making a complaint:

The perceived attitudes of adults:

- Adults' attitudes "they would just think we were moaning."
- They have a "lack of respect".
- "Why don't adults listen?"
- Will be seen as "kids moaning".
- They reckon they are "better" and "they think they know more" so no point.
- Having to talk to a stranger.

The lack of support:

- "Doing it on your own."
- "Lack of confidence."
- "The lack of adult support."
- "Feeling frightened, not confident to say anything."
- "Fear of response."
- "Travelling anywhere could be a problem, money for the bus if you had to go and see someone."
- "Wouldn't use the phone to complain."

The lack of information:

- "No information on it."
- "Information that did not make sense and looked complicated."
- "Not knowing what is going to happen and not knowing what they are going to say back."
- "If the information is in writing it may not make sense, we wouldn't read it."

The children and young people were asked to suggest how these barriers could be overcome. Their responses fell into 3 main categories:

Information about complaints:

The children and young people felt that the most fundamental piece of information they should be given was that they were **allowed** to complain and suggested that this would give them the confidence to do so.

They were almost unanimous in suggesting that the school would be the most appropriate place to access information and obtain initial support and made suggestions as to how this might be done:

- "To know that there was somebody you could complain to."
- "More information about making complaints, and in different ways, e.g. web, posters, CD ROM / interactive media, leaflets."
- "Having an Information Pack given to you in school."
- "Having someone tell you about complaints in school."
- "Knowing how to do it."

Child friendly procedures:

- The young people thought "getting different ways that you could complain would be good."
- They "wouldn't read big paragraphs of writing".
- If a complaint were to be made "knowing that something **had** to be done".
- The group decided that they would want to know what had happened within a timescale of seven days.

Getting support:

- The young people agreed that going to the teacher would be the first thing they would do, and "that it would be easier if it was somebody they knew and could talk to".
- "know you can complain to the teacher or head."
- "Get parents to help."
- They would want help to complain and "would feel more confident".
- "Having someone to help you in school."
- "Want to be kept involved and know what is happening."
- "If they didn't know what was going on the young people would just 'get angry' and would get more upset".

Local education authorities - Questions and Findings

Complaints and Representation Procedures – General

1 Please provide a copy of the local education authority's internal policy and procedures for dealing with complaints and representations from children and young people.

Are the policies and procedures those of the local authority (i.e. corporate) or have they been produced by the local education authority (i.e. department)?

- 19 local education authorities reported that they used the corporate policies and procedures for dealing with complaints and representations.
- 5 local education authorities reported that they had developed their own departmental procedures.

No local authority or local education authority reported that it had a separate procedure for dealing with complaints from children and young people.

We asked the children and young people to look at some of the procedures sent to us by local education authorities. They were unanimous that the documents were too long, too wordy and unnecessarily complex.

Comments on the length of the documents included:

"Would take too long to complain."

"Cut down on pages, waste of paper and time."

"Too boring, too formal - 20 pages long!"

"It's got too much writing. It could be written in much simpler language."

"It's got 5 pages about the council."

Comments on the lack of simplicity of the language used in the documents included:

"May be too complicated for the average child."

"Aimed for adults, children would get bored reading it."

"Children could be too intimidated to complain on their own."

"Language not appropriate for children."

"Complicated and not child friendly."

Suggestions for improving the use of the documents by children and young people included:

"Advocate to help complain."

"Use flow diagrams to explain."

"Reduce the amount of writing. Pretty bland and boring so add more pictures and different varieties of text and font. Make it more child friendly and colourful."

The children and young people were, however, much more positive about the information leaflets about complaints which, for the most part, contained brief summaries of the complaints procedures which they felt still contained all the information they needed. This is discussed further at question 8.

For a large organisation such as a local authority or local education authority to effectively engage with a child or young person as an individual requires substantial effort. A separate procedure for children and young people may not be necessary (and indeed may risk being seen as peripheral to the "proper" or adult procedure) however, as we hope this report makes abundantly clear, effort must be made to make such procedures accessible. **Lost in Care** (the Waterhouse Report), makes specific recommendations about the accessibility of the complaints process for children:

"7. Such complaints procedures should:

a) be neither too prescriptive nor too restrictive in categorising what constitutes a complaint;

b) encompass a wide variety of channels through which complaints by or relating to looked-after children may be made or referred to the Children's Complaints Officer including teachers, doctors, nurses, police officers and elected members as well as residential care staff and social workers;

c) ensure that any person who is the subject of complaint will not be involved in the handling of the complaint.”

This is a significant starting point for local education authorities to review their complaints procedures so that children and young people will be able to use them with confidence.

In this Review, the term “complaints and representations” has been used. These terms of course originate from the complaints procedures in social services as required by the Children Act 1989. While there are potential problems with this terminology (as described in **Telling Concerns**, pages 16 & 17) it does have the benefit of widening the concept from “complaints” which, especially for children, has an association with assigning blame to a particular person. Furthermore children and young people have told us that the opportunity to make a representation rather than a complaint is sometimes preferable. Often children and young people simply wish the service to be improved rather than instigate what they see to be the unwieldy, bureaucratic process of a formal complaint.

Representations from children and young people, positive or negative, should be seen as an important source of information for reviewing service provision.

2 Does your local education authority have a separate complaints policy for complaints which should be dealt with under the statutory curriculum complaints procedure? (Education Act 1996 section 409)

- 16 local education authorities reported that they had a separate complaints policy for complaints which should be dealt with under the statutory curriculum procedure (Education Act 1996, section 409).
- 4 local education authorities reported that they did not possess such a procedure.
- 2 local education authorities were unable to answer this question.

The Education Act 1996 section 409 places a duty on local education authorities to have a complaints procedure for considering whether the local education authority itself or the governing body of maintained schools:

“has acted or is proposing to act unreasonably in relation to the exercise of a power conferred on it in respect of matters such as the National Curriculum, collective worship, religious education, non-approved external qualifications or syllabuses, the provision of information, or the conduct of an appeal to the governing body about the head’s direction to withdraw the National Curriculum for a pupil...”

What is an LEA for?, p99, Whitbourne et al, 2004

Although no statutory duty is placed on local education authorities to have a general complaints procedure, there is a duty to have a curriculum complaints procedure. We suspected that the procedure would have been rarely used and this was later confirmed by local education authority officers throughout the Review. However, we included this question for the sake of completeness.

That only 16 local education authorities reported that they had such a procedure is surprising.

3 How are staff in your department made aware of the complaints procedures?

The responses to this question were as follows:

| Methods used to make staff aware | Instances referred to by authorities |
|---|--------------------------------------|
| Website / intranet | 13 |
| Induction Training | 8 |
| Leaflets, briefings, posters and other material | 6 |
| Procedure available in hard copy | 6 |
| Staff Manuals / Handbook | 4 |
| Specific training seminars / re-launch | 3 |
| Internal newsletter | 2 |

Employees' awareness of the policy, procedure and operational mechanics is a vital component of an effective complaints service.

It is of particular concern that only 11 local authorities referred to induction training or training seminars as methods of informing staff.

4 Does your local education authority have a designated budget for implementing the complaints and representations policy and procedures?

No local education authority reported that it had a designated budget for implementing the complaints and representations policy and procedures.

It is perhaps unsurprising that those local education authorities who rely on the corporate complaints procedure do not have a designated budget for its implementation. However, a budget is clearly needed to raise awareness of, and review and operate an effective complaints service. As will become clear later in this report, there is also much work to be done in departmental monitoring of complaints and ensuring that the outcomes of the complaints process are considered within strategic planning.

5 Does your local education authority keep records of all complaints and representations made by or on behalf of children and young people?

- 20 local education authorities reported that they kept records of complaints and representations at a departmental level.
- 1 local education authority reported that such records were only held corporately.
- 1 local education authority reported that they did not keep records at all.

Complaints and representations should be used to enhance service provision. Effective recording of such complaints is vital for analysis and can enable persistent problems to be identified.

Failure to keep records could prove to be problematic should legal action later be taken against local education authorities.

6 Does your local education authority record incidences of complainants withdrawing complaints, including the reasons for withdrawal?

- 13 local education authorities reported that they did not record incidences of withdrawn complaints.
- 8 local education authorities reported that they did record incidences of withdrawn complaints.
- 1 local education authority was unable to answer the question.

Children and young people may withdraw a complaint for a variety of reasons including anxiety or dissatisfaction with the complaint process or their perception of the consequences of complaining. Alternatively, their complaint or representation may have been resolved. It is important that every effort is made to understand why a child or young person has withdrawn a complaint and whether the issue complained about still needs review.

Provision of Information and Accessibility

A complaints procedure will only be effective if it is easy to access. Special effort is needed to make such procedures available to children and young people. This may mean providing information in pictorial form or in simple language. Special effort is also needed to ensure that children and young people with a disability can access the procedures – such as providing them in large print or in Braille. Those whose preferred language is not English or Welsh will also need special consideration.

7 Please provide copies of the public information your local education authority provides to children and young people on the complaints and representations procedures.

Are your procedures available in Welsh and English?

- 19 local education authorities reported that they had public information on the complaints process available in both Welsh and English.
- 3 local education authorities reported that they had no public information on the complaints process available in the Welsh language.

There are Welsh medium primary and secondary schools in all three of the local education authorities who reported that they had no public information available in Welsh. These local authorities should review how the failure to provide public information of this nature in the Welsh language correlates with their Welsh Language Policies – particularly where they have recognised the need to establish Welsh language schools.

8 Is there a “child friendly” version of the public information which can be made available to children and young people who wish to make a complaint?

- 17 local education authorities reported that they had a child friendly version of the public information on the complaints process.
- 5 local education authorities reported that they had no child friendly version of the public information on the complaints process.

The children and young people who contributed to this Review were asked to look at a sample of the information leaflets about complaints we had received from local education authorities. They were asked:

Is it clear what this leaflet is about?

"Yes because it has an easy title."

"Yes, the question on the front explains a lot."

"Yes it is clear."

Is it young person friendly?

"Too much writing not many pictures."

"Yes, not a lot of writing ,colourful heading interesting pictures."

"No not really because there are no pictures and lots of reading and writing - BORING!"

"It is not young person friendly."

Does the leaflet explain in an easy to understand way, what to do if a child or young person wanted to make a complaint?

"Yes but in a difficult way."

"No it does not because there is so much writing. Also too many long and complicated words which some children might not understand."

"No feedback form in the leaflet."

Write down any other comments your group has about improving the leaflet.

"Make different leaflets for different age groups."

"Need a mobile number to text as most people don't have faxes."

"We think it's for an older age group."

"Add some pictures."

"Reduce amount of writing."

"Add more colour."

"Big headings - colourful."

"Colourful to appeal to younger generations."

"Clear message."

"Illustrations make it young person friendly."

"Clear instructions - step by step."

"Whole page on how to complain."

"Only one colour inside."

"Contact details in back."

"Form to fill in to complain included in the leaflet."

"Bilingual."

"Red=Danger. Red means that there is something wrong, suggesting making a complaint is dangerous and wrong."

"Could be colourful."

"No illustrations."

"Should have pictures done by children."

The children and young people were more positive about the complaints leaflets than they had been about the formal complaints procedures but still felt that there was much room for improvement. They also demonstrated that their criticism was positive and that they had clear ideas on how improvements could be made. Local education authorities would be well advised to ask for their help in any revision of their public information on complaints. They may also want to consider whether the formal complaints procedures should automatically be given to all complainants or whether a summary version would suffice.

9 Does this information specifically state that children and young people may make a complaint?

Please comment on any criteria that are used – such as, for example, consideration of the age and maturity of the young person concerned:

- 15 local education authorities reported that they did not specifically state children could make a complaint in their public information on the complaints process.
- 6 local education authorities reported that they did specifically state children could make a complaint in their public information on the complaints process.
- 1 local education authority was unable to answer this question.

During the Review it was often reported that there were very few instances of children and young people making complaints. One senior officer stated “Children don’t make complaints – parents do!”

We know this to be untrue. The advice and assistance service provided by the Children's Commissioner for Wales is often asked to support children and young people in making representations to local education authorities about issues such as school transport or school reorganisation.

These representations are, however, rarely regarded by the local education authorities as complaints and are not processed through the complaints procedures. This means that lessons learnt from the resolution of such representations will not inform strategic planning decisions.

If children and young people are to be encouraged to make complaints about the services they receive, they need to be given relevant information and be encouraged to do so. Such encouragement will also have the effect that local authority officers will be clear that they should accept and facilitate complaints from children and young people.

10 Has your local education authority consulted with children and young people about the format of the information and its accessibility?

- 20 local education authorities reported that they did not consult with children and young people about the format of their public information on the complaints process.
- 2 local education authorities reported that they did consult with children and young people about the format of their public information on the complaints process.

Of those that reported that they did consult with children and young people, the consultation was about the provision of information to looked after children and conducted by the advocacy service commissioned by local authority social services. It would appear that only looked after children were provided with the information resulting from the consultation work.

Whilst this consultation is important, it must be recognised that looked after children represent only a small proportion of the children and young people who receive services from local education authorities. These children and young people are also often the only group who have

access to an advocate should they wish to pursue a complaint or make representations.

If local education authorities genuinely wish to engage all children and young people in their complaints process, they will need to ask them how best to provide the information about how they can do so. It is clear from the responses to this question that little thought has yet been given to how to do this.

11 How has your local education authority ensured that children and young people who receive direct services from the local education authority and who are from marginalised groups such as those from ethnic minorities, people with disabilities and younger children, are able to access the complaints procedures?

Ethnic Minority and Traveller children

- 18 local authorities reported that they had made no specific efforts to ensure that children and young people from ethnic minority communities are able to access the complaints procedures.
- 2 local authority reported difficulties in stretching the Ethnic Minority Achievement Grant beyond the requirements of assistance with English as a second language and emphasised the need for the cost of rurality to be taken into account in the apportioning of funding.
- 2 local education authorities reported that they were actively considering how to respond to the needs of those children and young people whose first language was neither English nor Welsh.

Disabled Children

- 18 local authorities reported that they had made no specific effort to ensure that disabled children are able to access the complaints procedures.
- 1 local education authority reported that it had arranged training for employees on how to work with disabled children and young people although it was unclear as to whether training about complaints was to be included.
- 1 local education authority reported that it was planning to launch an inclusion handbook for disabled children and young people although it was unclear as to whether information about complaints would be included.
- 1 local education authority reported that they had an advocacy and support service for disabled children and young people who were excluded from education.
- 1 local education authority reported that it had a forum for disabled children coordinated by a youth worker and issues affecting disabled children are raised through this forum.

Very few local education authorities had made any special arrangements to engage marginalised groups of children. This is disappointing but perhaps unsurprising given the low priority placed on engaging with children as a whole.

One local authority reported that over the previous 18 months they had taken steps to identify children from groups where English or Welsh is not the first language; but at that time they had not progressed to identifying the needs of those groups. It would not appear to be a priority.

Children and young people are already marginalised by our society; those who have to contend with further pressures (and the groups of marginalised children referred to in the question are by no means the only groups it is possible to identify) may have very specific or differing needs from others.

12 Has your local education authority considered other methods of publicising the complaints procedures? (Such as videos, peer education etc).

- 14 local education authorities reported that they had not.
- 4 local education reported relying on a website.
- 1 local education authority reported that they used a mobile van.
- 1 local education authority reported that they had a young people's information shop.
- 1 local education authority reported that they distributed leaflets in school.
- 1 local education authority was unable to answer the question.

Active methods of sharing information would enhance children's (and adults') confidence in the effectiveness of the process.

13 Does your local education authority provide information, which includes written examples, of the kinds of things children and young people can make complaints to the local education authority about?

- 17 local authorities reported that they did not give written examples of issues which children and young people could make complaints about.
- 4 local education authorities reported that they did do so.
- 1 local education authority reported that it was redesigning its leaflet and expressed its intention to do so.
- 1 local authority was unable to answer the question.

Including examples of issues that might arise encourages children to relate to and understand a process that may otherwise appear intimidating. It may also help children and adults understand the difference in the roles of the school and local education authority.

14 Does your local education authority make arrangements to ensure that children and young people who are "looked after" e.g. in foster and residential placements and secure accommodation can easily access the local education authority's complaints procedures?

- 7 local education authorities reported that they made no arrangements to ensure that children and young people who are looked after could easily access their complaints procedures.
- 5 local education authorities reported that they had a designated officer responsible for matters concerning looked after children.
- 4 local education authorities reported that they had made contact with the advocacy service made available to looked after children to ensure that the role of the local education authority was understood.
- 3 local education authorities reported that they would now be considering including information on the role of the local education authority in the information packs made available to looked after children.
- 1 local education authority reported that it had already included a leaflet on educational matters within the information given to looked after children.

- 1 local education authority reported that they had held several “promotion/consultation” events with looked after children.

This question was asked in light of the Waterhouse Report and its emphasis on how difficult children and young people found it to make a complaint while being looked after. A child or young person who wants to make a complaint must be able to do so immediately, whatever the nature of the placement or circumstance. Children who are looked after need further assurance that it is all right to complain as a way of improving the service to them and their peers. They need reassurance that making a complaint or representation can be positive and may result in improvement of the services to them and their peers.

The role of designated teachers for looked after children is an important one and the Children's Commissioner's advice and assistance team has had experience of these teachers advocating on behalf of children and young people in relation to exclusion from school. Advocating in relation to a complaint against the local education authority, however, may well place them in a difficult position.

Telling Concerns reported that social services often provided information packs to looked after children. Information on how to ask for help with education matters could easily be added to such packs. Liaison with those in social services responsible for the “LAC packs” could be part of the role of designated teachers for looked after children.

Many of the difficulties in making a complaint would be avoided were local authorities to adopt a single point of contact for complaints – a one-stop-shop approach as recommended in **Telling Concerns**.

15 Does your local education authority have arrangements to ensure that children and young people in residential placements (such as specialist teaching facilities) outside your local education authority area can easily access your local education authority's complaints procedures?

- 17 local education authorities reported that they made no arrangements to ensure that children and young people in residential placements outside their local education authority area could easily access their complaints procedures.
- 3 local education authorities reported that they provided information on its role and complaints procedures to parents of these children.
- 2 local education authorities reported that they made regular visits to these children.
- 2 local education authorities reported that these children and young people could use advocacy services.
- 1 local education authority reported that it made information available to these children and young people.
- 1 local education authority reported that it would now consider making such information available.

Children and young people, whether looked after or not, who are living even part of the time away from home will inevitably find it very difficult to make a complaint or raise an issue. They may be or feel particularly vulnerable, they may have difficulty finding the right time to raise an issue with their parent and, as with most children and adults, they are not likely to understand the precise role of the local education authority in relation to their placement or to whom they need to speak.

During the interview process, many local education authority officers raised concerns about the welfare of this particular group of children and young people. These concerns were about both the children and young people local authorities had placed outside their own authority as well as children and young people placed in their authority by another authority. Problems of communication appear to be compounded by poor awareness of the different policy contexts when operating across the England-Wales border.

It would be relatively easy for local education authorities to ensure that this small group of children and their parents were directly given information about the complaints process and how to raise issues and this should be a priority for local education authorities.

Designated Complaints Officer

Dealing with complaints may well require special skills and training - particularly when the complainant is a child or young person. Information arising from complaints can provide useful information to those engaged in strategic planning. Many organisations appoint a senior officer to oversee the operation of the complaints procedures, maintain and analyse records and report to senior management.

The term “designated complaints officer” used in this Review arises partly from the statutory guidance and regulations that accompanied the Children Act 1989 – ***The Children Act 1989 Guidance and Regulations, Vol. 3 Family Placements*** Chapter 10 paragraph 10.5. which refers to “designated officer”. “Complaints” has been included for clarity and to distinguish between this post and that of the designated officer for whistleblowing referred to in chapter 4 of this report.

The title of the officer responsible for dealing with complaints varies across local education authorities.

16 Does your local education authority have a designated complaints officer for co-ordinating and responding to complaints and representations from children and young people?

- 16 local education authorities reported that they did have a designated complaints officer.
- 4 local education authorities reported that they did not have a designated complaints officer.
- 1 local education authority reported that it did not have a designated complaints officer at present but intended to create a post shortly.
- 1 local education authority was unable to answer the question.

The range of responsibilities and status of the designated complaints officer differs widely, reflecting the differing structures of local authorities in Wales. Of the 17 local education authorities who had appointed a member of staff to the role; 15 were at senior level and 2 were at a lower and administrative grade in the organisation.

In response to question 1, 19 local education authorities reported that they used the corporate complaints procedures for dealing with complaints. In some local authorities the entire process of handling a complaint is dealt with centrally. This certainly has the potential to ensure improvements to services corporately and provide an overview of each department’s performance. However individual departments will need to take account of the issues that arise.

It is also important that where the investigation and resolution of any complaint or representation is devolved entirely to an individual staff member (which may well have the advantages of informality and speed), that the practice and policy issues that inevitably arise can inform planning and development within the local education authority.

17 Is the designated complaints officer responsible for managing all complaints and representations procedures within your organisation or only children and young people's complaints procedures?

Of the 17 local education authorities who reported that they had a designated complaints officer:

- 16 reported that they dealt with all complaints.
- 1 reported it had a specialist children's complaints officer (in addition to the designated complaints officer).
- 1 reported the imminent creation of a vulnerable children's officer post with complaints as part of its remit.

In recent years, several reports have emphasised the advisability of having a children's complaints officer.

The third recommendation of the Waterhouse Report is that: 'Every social services authority should be required to appoint an appropriately qualified or experienced Children's Complaints Officer.'

The fourth recommendation goes on to list in some detail the duties of this Officer, including the need '...to act in the best interests of the child...', and, '...to ensure that recourse to an independent advocacy service is available to any complainant or affected child who wishes to have it.'

Similar recommendations arose out of the Carlile report, ***Too Serious a Thing: The Review of Safeguards for Children and Young People Treated and Cared for by the NHS in Wales:***

"12.32 We recommend that all NHS Trusts and Local Health Boards should appoint a children's complaints officer to act in the best interests of the child."

The Children's Commissioner for Wales has always expressed the view that complaints by children need to be handled with an awareness of and sensitivity to children's specific needs. Furthermore complaints made by children on any local authority matter should be received and handled at one point - the one-stop-shop approach.

It is logical that the appointment of children's complaints officers to be considered on a corporate basis. Even where departmentally based or specialist children complaints officers are considered appropriate, there will be common training needs and good practice issues. It is crucial that a mechanism for feeding back issues to individual departments is be rigorous and that the local education authority takes account of all complaints relating to education.

A children's complaints officer would be better placed to ensure that the complaints procedures are more child centred by consulting with children and young people as discussed in question 19 below and also better placed to initiate child protection procedures – which currently causes concerns as discussed in questions 20 and 21.

18 Is the designated complaints officer linked to planning and policy structures within the local education authority and/or other children's services within the local authority?

- 15 local education authorities reported that their designated complaints officer was linked to planning and policy structures within children's services.
- 6 local education authorities reported that their designated complaints officer was not linked to planning and policy structures within children's services.
- 1 local education authority was unable to answer the question.

Of the 15 local education authorities that reported their designated complaints officer was linked to planning and policy structures within children's services:

- 7 local education authorities reported that the designated complaints officer participated in senior management team meetings.
- 2 local education authorities reported that they achieved this link through the Children and Young People's Framework for Partnership.
- 4 local education authorities reported that they achieved this through a corporate structure.

Of the 6 local education authorities who answered "no" to this question, one reported that it hoped to achieve this link in the future through the Children and Young People's Framework for Partnership.

The National Assembly for Wales document ***Children and Young People: a Framework for Partnership*** sets out a vision where those providing services for children can work in partnership, with the least possible bureaucracy, and across organisational boundaries. It also describes an approach which ensures the effective participation of children and young people at a local level through which they can be included in the planning and review of services.

The consideration of the issues underlying complaints and representations can provide valuable information about potential improvements to services which should be made available to the Children and Young People's Framework for Partnership as well as informing planning and policy at a departmental and corporate level.

19 Does the designated complaints officer consult regularly with children and young people about the complaints process?

- 19 local education authorities responded that they did not consult regularly, or at all, with children and young people about the complaints processes.
- 2 local education authorities responded that they did consult regularly with children and young people about the complaints process.

Of the 19 local education authorities that did not:

- 3 local education authorities reported that they were actively considering plans to put mechanisms for consultation in place

Children and young people have specific needs and views on the services they are offered. This Review clearly demonstrates that local education authorities have expended very little effort to ascertain their views or potential complaints.

Indeed almost universally the primary client of the local education authority was regarded as the school, as represented by the headteacher. Most local education authorities were aware of the limitations of this approach and had made substantial efforts to engage with parents with specific efforts being made to reach particular groups - such as parents of children with special educational needs. While school councils and local authority wide forums for children and young people were beginning to be consulted by local education authorities only some were, as yet, seriously engaging with children as a client community.

20 What criteria does the designated complaints officer use to determine whether any aspect of a complaint is a child protection issue?

**Please give details and include copies or reference to any guidance/procedures:
Please give details of any child protection training received by this officer:**

- 14 local education authorities reported that they referred to child protection procedures and guidance.
- 4 local education authorities reported that child protection concerns would be brought to the named local education authority officer for child protection, with this advice being “understood” rather than in writing.
- 3 local education authorities reported no additional procedures or understanding.
- 1 local education authority reported that such matters would immediately be referred to the Intake and Assessment Team of the Social Services Directorate children’s services.

Of those local education authorities that referred to child protection procedures and guidance:

- 7 local education authorities referred to the All Wales Child Protection Procedures.
- 5 local education authorities referred to guidance from their Area Child Protection Committee.
- 2 local education authorities referred to the Procedures for Allegations Against Staff (the NEOST guidance).

Training:

- 11 local education authorities reported that none of their staff had received child protection training.
- 7 local education authorities reported that a designated officer within the department had received specific child protection training in the appropriate procedures.
- 4 local education authorities reported that their staff had received general awareness training in child protection issues.

Once an issue is referred to as a child protection matter most local education authorities are clear how to process the matter. The crucial question is **how** any complaint or representation that is brought to the attention of the local education authority comes to be interpreted as a “child protection matter”.

That only 14 local education authorities referred to a written procedure in their answer to this question is cause for concern.

It is cause for serious concern that 11 local education authorities reported that none of their staff had received any form of training in child protection matters (even general awareness raising). It raises the question of whether having a single named officer for child protection is sufficient. If this officer is unavailable, it may be that no one will recognise an issue as needing immediate implementation of child protection procedures if they have not received appropriate training.

One local education authority reported that the officer receiving the complaint would have to make a judgment as to whether the complaint was “not trivial or false” and in another local education authority child protection was understood as “a complaint involving physical touching”. Both of these answers are extremely worrying.

The Children's Commissioner for Wales expects that all referrals about child protection are immediately dealt with according to the **All Wales Child Protection Procedures** and reference to

Working Together to Safeguard Children which contain detailed definitions of what constitutes child abuse.

All employees need to be clear that a child protection matter must not be dealt with as a complaint. To do so could cause delay in ensuring that the child is not exposed to further risk. Any investigation by inexperienced officers may well contaminate evidence and further compromise a child's safety and well-being.

The Children's Commissioner for Wales, in the **Clywch Report**, recommends.

21.22 ... that all Chief Executives and Directors of Education in Wales or their equivalents within 3 months of the publication of this report:

(i) establish and maintain an authority wide database relating to all schools, stating the name of the designated liaison teacher for child protection, the level of training undertaken and the dates on which training was given

(ii) develop and implement an action plan to ensure that all staff employed within education and children's services who are in direct contact with children and young people and those personnel with a policy/management role in relation to schools and the education service, are trained in child protection as appropriate to their duties

(iii) carry out an audit of all schools to identify the nominated governor for child protection. Once this information is established, a programme should be put in place to ensure that nominated governors have the opportunity to attend child protection training to include training in dealing with allegations against teaching and non teaching staff. In addition, an opportunity to attend child protection training should be made available to all governors.

21.23 ... that all Chief Executives and Directors of Education in Wales or their equivalents appoint a child protection coordinator within 6 months of the publication of this report with a specific responsibility for schools, to increase the capacity of local authorities to support and develop school related child protection issues

The implementation of these recommendations will continue to be monitored by the Children's Commissioner for Wales' office.

**21 Does the designated complaints officer always interview the adult, child or young person when a complaint or representation is made?
Please give details of any training received by this officer:**

- 17 local education authorities reported that an interview was not a normal part of responding to a complainant.
- 4 local education authorities reported that the complaints officer would always interview the complainant.
- 2 local education authorities reported that the investigating officer would interview the complainant.
- 1 local education authority reported that this would occur only if the matter involved the potential for disciplinary action.
- 1 local education authority reported that it had active plans to make this part of its policy.

Children and young people consistently emphasise the importance of “telling their story” and of “someone listening” when they discuss the complaints process. This face-to-face contact is obviously of great value to them. It may also be useful in clarifying and recording the complaint. However, facilitating and enabling children and young people to make a complaint is a skill that appears to need developing within local education authorities.

It is interesting that 4 local education authorities felt it necessary to state that, in accordance with the All Wales Child Protection Procedures, they would not meet with any child if the complaint was a child protection matter and refer the matter immediately to social services. The importance of following the proper procedures when dealing with child protection matters cannot be over-emphasised.

However, the child should obviously not be left to wonder what has happened to their complaint and be kept informed appropriately.

Receipt of Complaints: Complaints received in schools

The first point of contact with education services for both children and young people and parents/carers is most often the school. Complaints, which should properly be directed to the local education authority, may well be raised with a headteacher in the first instance.

22 Does your local education authority provide guidance to headteachers to help them decide whether the complaint should be handled through the school procedures or the local education authority procedures?

- 20 local education authorities reported that they provided written guidance to headteachers on handling complaints.
- 2 local education authorities reported that they did not provide written guidance to headteachers on handling complaints.

Providing information on the respective roles of the local education authority and the school would clarify which procedures should be used. It may also be helpful for local education authorities to provide this information to parents and young people.

23(a) If a complaint is pursued through a school's complaints procedures and the complainant is not satisfied with the outcome, can the complaint then be addressed to the local education authority?

- 20 local education authorities reported that if a complaint had been pursued through a school's complaints procedures and the complainant was still not satisfied then the complaint could be addressed to the local education authority.
- 1 local education authority reported that the matter could not be addressed to it.
- 1 local education authority was unable to answer the question.

23(b) Will your local education authority consider the substance of any such complaint?

- 12 local education authorities reported that they would consider the substance of the complaint.
- 9 local education authority reported that they would not consider the substance of the complaint.
- 1 local education authority was unable to answer the question.

23(c) Will your local education authority consider the process by which the complaint was considered in the school?

- 21 local education authorities reported that they would consider the process by which the complaint had been considered in the school.
- 1 local education authority was unable to answer the question.

23(d) Will your local education authority consider the decisions made as a result of the consideration of the complaint?

- 11 local education authorities reported that they would consider the decision made by the school governing body as part of their consideration of the complaint.
- 10 local education authorities reported that they would not consider the decision made the school governing body as part of their consideration of the complaint.
- 1 local education authority was unable to answer the question.

In May 2004 Welsh Assembly Government issued **Guidance Circular 03/2004: School Governing Bodies Complaints Procedures** which includes:

“Role of the Local Education Authority/Diocesan Authority

3. LEAs and diocesan authorities do not have a statutory role in resolving complaints about schools – the statutory responsibility rests with the governing body.

4. The governing body can also ask the LEA (and in the case of voluntary aided schools the diocesan authority) for assistance to investigate a complaint; advice on handling; or advice on the response.

5. The procedures may allow for an additional stage for the LEA or diocesan authority. The Welsh Assembly Government’s view is that the involvement of the LEA or diocese in a further stage would be for the purpose of reviewing the procedure used to reach a decision, not to review the decision itself or to act as an appeal mechanism.

6. If the authority or diocese, if appropriate, concluded that the process followed in a particular case was deficient, it could ask the governing body to reconsider the matter with a committee with different membership from the complaints and complaints appeal committee.

7. The Welsh Assembly Government expects the LEA and/or diocesan authority to keep the school informed of progress of any review. It is recommended that at the end of the process the LEA and/or diocesan authority considers providing copies of documentation, including their decision and documents relating to any actions taken, to the school for the school’s records.

8. The governing body may wish to build into its complaints procedure an explanation of the role of the LEA or diocesan body.”

Officers of the 12 local education authorities who considered the substance, and the 11 who considered the final decision, of the school complaints process were asked during the interviews whether they believed the local education authority should be involved in more than the statutory role of considering only the process of the complaint procedure.

Many responded that the school governing body lacked sufficient independence from the decision-making process, and was therefore unable to critically review decisions.

Many expressed concerns over the lack of training, knowledge and experience of school governors.

All believed that there was a genuine problem with a perceived lack of independence which affects the perception in the community of a fair and just process. It should be noted that the anxiety and additional conflicts caused by this lack of independence, real or perceived, for parents, teachers, governors and children is something with which the Commissioner's advice and assistance team is all too familiar.

Similar issues were raised by parents during the Clywch Examination which gave rise to the Commissioner's recommendation:

21.27 The Welsh Assembly Government's 'Guidance on Procedures for Dealing with Complaints to Governing Bodies' shows an awareness of the difficulties in achieving sufficient independence in all stages of the investigative process of a complaint and in adjudication in schools, especially small schools. I share this concern but remain unconvinced that the remedies proposed will prove practicable and effective. Nonetheless, I feel the arrangements proposed should, amended as I have suggested, be given the chance to be tested and therefore that they, together with 'Complaints Involving Pupils' should be issued as statutory guidance without delay and not later than 1 September 2004. My office will conduct a Review of these arrangements after they have been in force for 1 year.

Receipt of Complaints: Complaints made directly to the local education authority

This section refers to complaints made about services provided directly by the local education authority - including complaints about admissions, school transport, special educational needs and educational welfare services.

24 What are your local education authority's criteria for deciding if an adult has a "sufficient interest" in the child's welfare to accept his/her complaint made on a child or young person's behalf?

No local education authority reported that they had any written criteria for this.

- 5 local education authorities reported that they would normally only consider complaints from those with parental responsibility.
- 4 local education authorities were able to provide a generous description of possible or previous scenarios in which this situation had occurred and a judgement had been made.
- 3 local education authorities commented on the need to be aware of potential differences between such a complaint and the child's perspective.

This is a difficult area and there will indeed be circumstances where the complainant and the child have different agendas. However, where an adult is concerned enough to raise concerns or to report matters which affect children's welfare, they should be listened to and the matter investigated. The Laming report of the **Victoria Climbié inquiry** made it clear that her death might have been avoided had agencies acted upon concerns received from the general public. Similarly if, for example, a member of the public were to report unsafe practices on school transport, the local education authority should at least investigate.

25 Can children and young people make complaints on behalf of other children and young people?

This question was based on information from children and young people as well as research from peer led projects, which identified how often children confide in their friends and peer group.

- 14 local authorities reported that children and young people could make complaints or representations on behalf of their peers.
- 4 local education authorities reported that they would refuse to consider such complaints.
- 2 local education authorities reported they had specific initiatives which allowed views to be raised in this way.
- 1 local education authority reported that it would consider such a complaint “only in exceptional circumstances and if the complaint was valid”.
- 1 local education authority commented that it “would depend on the seriousness of the allegation”.

It is clearly unfair to refuse to consider a complaint from a child if that same complaint would have been considered if it had been made by an adult. Children and young people often have more confidence speaking on behalf of their friends or peers and such complaints should not be taken less seriously. However, issues of both confidentiality and consent need to be considered. One local education authority reported that when an adult or a child was making a complaint on behalf of another a “representation authorisation form” was used to obtain consent from the child at the centre of the complaint.

26 Does your local education authority require formal complaints to be in writing or do you accept alternative formats? (Such formats might include video recordings or complaints in pictorial format.) Please comment on any special arrangements that may be made:

- 17 local education authorities reported that they did not require a complaint to be presented in writing before they would act on a matter.
- 4 local education authorities reported that they required a formal complaint to be presented in writing before they would act on a matter.
- 1 local education authority was unable to answer this question.

A consistent message from the children and young people is the need for “telling” or having face-to-face contact with someone listening to their story. For them this is often the most important part of any complaint process.

It was encouraging to learn that most local authorities did not insist on written complaints in the first instance and would provide assistance in writing-up complaints which would then be agreed upon by all parties. It is of course necessary for any complaint to be recorded both to establish the remit of any investigation and for policy analysis purposes.

27 How does your local education authority facilitate and enable children and young people to record a complaint?

No local education authority reported that it had any specific arrangements to help children and young people record a complaint.

- 6 local education authorities reported that if any difficulties were being encountered staff would specifically be instructed to assist.

If children and young people are to feel encouraged to present their views, this is a matter which local education authorities must address.

28 How does your local education authority respond to complaints about discrimination or harassment by local education authority employees?

- 9 local education authorities reported they would consider the matter through the complaints process.
- 8 local education authorities reported that they would consider the applicability of the complaints procedure alongside the staff disciplinary, the harassment, anti-bullying and equal opportunity policies.
- 2 local education authorities reported they would consider the applicability of both the complaints procedure and the staff disciplinary policy.
- 1 local education authority reported that it would consider the applicability of both the complaints procedure and the corporate whistleblowing policy.
- 1 local education authority reported that it had no specific arrangements for complaints of this nature and had not considered the matter.
- 1 local education authority was unable to answer this question.

Discrimination or harassment, which may well constitute a criminal offence, can occur as a result of a child's identity or because a young person is a member of a particular community. Dealing with discrimination or harassment requires special sensitivity. Officers will need training in recognising the issues involved and dealing with them appropriately if there is to be improvement in this area of service delivery.

The corporate whistleblowing procedure will only be relevant if an employee wishes to be considered as a whistleblower.

Local education authorities should also consider the applicability of the child protection procedure when such matters are raised.

29 What information is given to children and young people once they have made a complaint? Please provide copies of any documents used.

- 11 local education authorities reported that they would not send any information until the end of the complaint process.
- 3 local education authorities reported they would seek a personal meeting to explain the process.
- 2 local education authorities reported that copies of the actual procedures would be given to older children alongside a verbal explanation.
- 2 local education authorities reported that they would send a copy of the complaints leaflet.
- 1 local education authority reported that it would send a copy of the complaints procedure together with an acknowledgment card.
- 1 local education authority reported that it would send an acknowledgment form giving the

name of the staff member investigating the complaint.

- 1 local education authority was unable to answer this question.

It is disappointing that so many authorities are not currently acknowledging complaints or providing information to children on the process. This is not good practice and would certainly irritate an adult complainant. To a child or young person the effect could be devastating. It will usually take a children and young people considerable effort to present their views to what will appear to them as a faceless and frightening bureaucracy. It is imperative that this effort is recognised and encouraged. Children and young people will usually also be very concerned about what is likely to happen next. Information on the process should be provided to them.

Informal/Problem solving processes

It is likely that many complaints will be resolved quickly, to the complainant's satisfaction, by minor adjustments to the service provision that is the subject of the complaint, and should be encouraged.

However, such informal resolutions should not be used to delay the process of formal complaint or prevent a complainant proceeding with a formal complaint if they so wish.

30 Does your local education authority have any procedures to try to resolve issues of concern before a complaint is considered a formal complaint?

- All 22 local authorities reported that they used informal procedures to try to resolve issues of concern as a matter of course and this was detailed in the corporate complaints procedures.

Some made additional comments:

- 1 local authority included the caveat that, where there appeared to be child protection issues, informal procedures were not appropriate and that child protection procedures would be initiated without delay.
- 1 local authority stated: "The complaints policy and procedure encourages issues to be dealt with swiftly and as close to the problem as possible."
- 1 local authority reported that its Educational Welfare Officers, based in schools, dealt with problems on a daily basis and that these problems, if satisfactorily resolved, were not considered as complaints.
- 2 local authorities mentioned the term mediation in response to this question.
- 1 local authority reported that there were written guidelines for staff in the SEN department on dealing with complaints.

This last comment referred to arrangements for the recently introduced Disagreement Resolution Service which can be used when the parent of a pupil who has special educational needs is in dispute with the local education authority. It is a form of mediation which may avoid the need for appeal to the Special Educational Needs Tribunal for Wales - without prejudicing the parent's right to do so later.

It is interesting that three local education authorities referred to mediation and disagreement resolution in response to this question. It is too early to evaluate the effectiveness of the approach within the special educational needs arena but mediation may well prove to be effective in other areas of the complaints process.

31 Where these procedures exist, do they include any time limits for dealing with issues or problems at this informal stage?

- 8 local education authorities reported that there were time limits specified within their procedures.
- 13 local education authorities reported that no time limits were specified within their procedures.
- 1 local education authority reported that since there was no “informal stage” there were no set time limits.
- 1 local education authority reported that their formal complaint time scale would be applied from the receipt of a complaint even if informal resolution was attempted.

A range of timescales for this stage were quoted : from 5 – 20 working days.

- 3 local education authorities used the word “immediately” in their response to this question.
- 1 local education authority officer stated that if it were not possible to resolve a complaint within a day or so it would advise the complainant to make a formal complaint.

32 Are complainants given the opportunity to proceed directly to the formal complaints procedure if they do not wish to attempt informal resolution?

- 21 local education authorities reported that complainants are given the opportunity to proceed directly to the formal complaints procedure.
- The remaining local education authority reported that “it depended on the individual circumstances but that an attempt at informal resolution would be attempted in the majority of cases” - although they acknowledged that this was not always possible.

One local education authority commented in interview that any complaint of a serious nature would best be dealt with as a formal complaint from the outset.

33 Is there a procedure for recording the outcome of informal resolutions?

- 9 local education authorities reported that they did not record the outcome of informal resolutions.
- 11 local education authorities reported that they had a procedure for recording outcomes.
- 2 local education authorities were unable to respond with a simple “yes” or “no”.

Some local education authorities made additional comments:

- 1 local education authority reported that all complaints were recorded on a database that allowed analysis.
- 5 local education authorities reported that the outcomes were recorded in a central file that allowed analysis.

However, it seemed unlikely that many local education authorities would be able to analyse these outcomes in such a way as to be able to identify trends.

- 4 local education authorities reported that the recording consisted of placing copies of correspondence on pupils’ individual files.

- 2 local education authorities reported that they relied on the overview provided by the officers who dealt with complaints who were then able to report back to management meetings - “each service head will note issues raised by 'potential complainants' in order to ensure that if a pattern of issues is evident remedial action can be identified if appropriate.”

It is to be hoped that most concerns will be dealt with immediately and resolved at this informal stage. Valuable lessons can be learnt from these informal resolutions if they are recorded and disseminated. However, if there are no procedures for recording and disseminating these outcomes, each officer dealing with similar concerns will have to make decisions without guidance about how they had been resolved in the past. This could result in complainants with similar concerns being treated differently which would undermine complainants' confidence in the complaints procedures.

The failure to keep accurate records of informal resolutions is a serious flaw which could be addressed by the establishment of the one-stop-shop approach to complaints.

34 Does your local education authority have arrangements for supporting children and young people in residential specialist teaching facilities outside the local education authority area during this process?

- 12 local education authorities reported that they had arrangements for supporting these children and young people.
- 9 local education authorities reported that they had no such arrangements.

These responses, however, need to be considered more closely. Some local education authorities reported that all their out of county placements are jointly funded and, if social services are involved, the children are supported as looked after children. This entitles these children and young people to access to the social services advocacy service for looked after children.

For children who are not looked after, there is an assumption that parents are the source of any support that is needed. However, children and young people may wish to pursue a complaint independently of their parents and for this they will need support – particularly if they have problems communicating.

Almost all such specialist placements are for children with a statement of special educational needs. It is a statutory requirement that statements are reviewed minimally on a yearly basis (Annual Review) or, for pupils under 5 years old, six monthly. Some local education authorities reported that educational psychologists would be the source of support for children and young people. One local education authority reported that two officers would attend this meeting twice yearly - one to interview the child and one to assess the placement and facilities.

It is difficult to see how such Annual Reviews would be an effective source of support should a child or young person wish to lodge a complaint in the intervening period between reviews.

It would appear that the low incidence of complaints from children and young people has resulted in local education authorities not having considered how they would provide such support. Some reported that they would ensure that an local education authority officer would be made available to support the child. This does, however, raise the question of the independence of the support offered.

During the interview process, we were given examples of the support given by local education authority officers to pupils whose wishes were at odds with either those of their parents or with those of the school. This is commendable. It is difficult to see, however, how officers can offer similar support when there is a dispute with the local education authority.

Formal Complaints

35 Are decisions regarding provision (or withdrawal) of services postponed until the complaints process is completed?

This question required considerable explanation at interview:

- 6 local education authorities completed the questionnaire with a “yes” response.
- 7 local education authorities completed the questionnaire with a “no” response qualified with a comment.
- 5 local education authorities completed the questionnaire with a “no” response with no qualification.

Most local education authorities made additional comments:

- 12 local education authorities commented that such a decision would “depend on the nature of the complaint”.
- 1 local education authority commented that if it were thought that the complainant did not qualify for a service it would not be provided while the complaint was being processed.
- 3 local education authorities commented that decisions about the withdrawal of special educational needs provision would be postponed until any appeals process had concluded.
- 1 local education authority commented that where there had been a decision to exclude, the exclusion would remain until the consideration of an appeal.

The comments about special educational needs and exclusions should be considered as arrangements for appeals rather than complaints in that there are specific appeals processes to deal with these issues as with school admission appeals.

In general, there appeared to be little documentation which detailed how local education authority officers would decide whether to provide services during the consideration of a complaint. Most suggested that the status quo would “probably” persist until the complaint had been processed.

Unless there is written guidance for officers within the complaints procedure, they will find it difficult to provide complainants with accurate information in advance about how their complaint will be processed. This guidance should specify that decisions should be frozen unless the rights or welfare of a child could be compromised as a result.

36 Is there a timescale for the processing of complaints from receipt of a formal complaint to responding to the complainant?

- 17 local education authorities reported that there were timescales within their procedures.
- 4 local education authorities reported that there were no timescales within their procedures.

Of those who answered, “yes”, there was a range of timescales between 5 and 30 working days reported.

37 What proportion of complaints and representations are processed by your local education authority within the timescales laid out in your complaints procedure?

Only 9 local education authorities were able to provide figures:

- 5 local education authorities reported that 100% of complaints were processed within the timescales.
- 1 local education authority reported that 87% were processed within the timescales.
- 1 local education authority reported that 78% were processed within the timescales.
- 1 local education authority reported that 63% were processed within the timescales.
- 1 local education authority reported that 50% were processed within the timescales.
- 4 local education authorities reported that new systems for monitoring complaints would mean that they would be able to provide figures in the future.

One local education authority commented that although figures were available corporately – for all complaints within the local authority – it was not possible to break them down by department.

One local education authority commented that this was a key performance indicator for its department. All local education authorities should consider adopting this as a performance indicator.

Indeed, were local authorities to establish a one-stop-shop approach for handling complaints, they would be able to ensure that such performance indicators were available for all their departments.

38 If there is a delay, how are complainants informed of the reasons?

- 1 local education authority reported that the question was not applicable as it had no timescales in its procedure.
- 13 local education authorities reported that they would inform a complainant in writing.
- 3 local education authorities reported that they would inform a child verbally as well as in writing.
- 3 local education authorities reported that they would inform a complainant in writing and by telephone.
- 2 local education authorities reported that there were no formal procedures.

Investigation of the Complaint

The person who investigates the complaint needs to know about the work of the local education authority and it is therefore likely that an officer of the local education authority would be appointed. However, it may not be appropriate for this officer to be from the department which is subject to the complaint.

Again, actual job titles vary. In this Review, the term “investigating officer” is used for the person who normally undertakes this work. It is recognised that this person may be appointed to this role for the duration of a single complaint only.

39 Does your local education authority always appoint an investigating officer when investigating a complaint?

- 17 local education authorities reported that they always appoint an investigating officer when investigating a complaint.

- 5 local education authorities reported that they do not always appoint an investigating officer when investigating a complaint.

The word “always” caused some problems here.

- 5 local education authorities reported that the corporate complaints officer of the local authority would investigate.
- 1 local education authority reported that it would only appoint an investigating officer when the complainant was dissatisfied with the corporate complaints officer’s initial response.
- 3 local education authorities reported that an investigating officer would only be appointed in “complex” cases.

Again, most local education authorities reported that the complaint was dealt with and investigated corporately and not by the local education authority itself.

Two local education authorities reported that the local authority complaints officer would be responsible for investigating at stage 3 of the procedure when a complainant has the opportunity to have the complaint considered by the chief executive of the local authority.

40 What are your local education authority’s arrangements for the appointment of an investigating officer?

- 2 local education authorities reported that they had no arrangements.
- 2 local education authorities reported that the corporate complaints officer would always be appointed.

The local education authorities that had arrangements for appointing an investigating officer reported that the Director or Head of Service would appoint the investigating officer from within the local education authority.

- 3 local education authorities reported that the investigating officer would be appointed from officers from a different directorate.
- 2 local education authorities reported that should the complaint proceed to stage 3 of their procedure, the corporate complaints officer would arrange for the investigating officer to be appointed from a different section.
- 1 local education authority reported that, in unusual circumstances, it appointed an independent investigating officer from outside the local authority.

It became clear that in most authorities there was some confusion between the informal resolution of a complaint within a department and the handling of a formal complaint. Informal resolution is, quite properly, attempted by officers within a department. However, when a complainant decides to take their complaint to the formal stage, they understandably want to have the complaint considered more objectively.

At this stage of the interviews, officers were invited to reflect on the comments that so many of them had made about the perceived lack of independence of school complaints procedures in response to question 23 in this chapter. Many commented that such perceptions could also apply to the consideration of complaints within local education authorities.

41 Please describe the training and on-going support you provide for investigating officers.

- 8 local education authorities reported that no training was provided.

- 2 local education authorities reported that training was provided on disciplinary procedures.
- 8 local education authorities reported that guidance on legal and disciplinary issues was provided.
- 4 local education authorities reported that training was provided for the investigating officer.

That four local education authorities provided training would indicate that they had identified a need. It is likely that such a need exists in all local education authorities.

42 Please give your rationale for the cases in which you do not appoint an investigating officer:

- 10 local education authorities reported that they always appointed an investigating officer.
- 2 local education authorities reported that the corporate complaints officer would always be appointed.
- 10 local education authorities reported that they would not appoint an investigating officer when there had been a resolution at the informal stage.

43 To whom would the investigating officer normally report his/her findings?

Not all local education authorities appoint an investigating officer, some referred to the corporate procedure in response to this question.

- 2 local education authorities reported that the investigating officer was required to report to the corporate complaints officer.
- 1 local education authority reported that the report should be to the head of service and the complaints officer.
- 12 local education authorities reported that the report should be to the director, assistant director or the head of service.
- 1 local education authority reported that the report should be to the Chief Schools Officer.
- 1 local education authority reported that the report should be to Line Manager/Head of Function.
- 1 local education authority reported that the report should be to "a more senior officer".

Two local education authorities reported that the investigating officer should, in addition to the above, also report to the complainant. There was no clarification whether this was to be before or after decisions had been made on actions to be taken as a result of consideration of the report. This practice could lead the complainant to expect an outcome that may not later be reflected in the final decision of the local authority. See below at question 45.

44 Is the investigating officer required to make recommendations on the decisions to be made as a result of the consideration of the complaint?

- 16 local education authorities reported that the investigating officer is required to make recommendations.
- 3 local education authorities reported that the investigating officer is not required to make recommendations.

- 1 local education authority reported that any recommendations would be made in discussion with line management or senior staff.

The three local education authorities who reported that the investigating officer was not required to make recommendations were those who, in question 45, also reported that the investigating officer was required only to make findings of fact.

That, in one local education authority, there is a requirement to discuss recommendations before including them in the report raises concerns about the impartiality and objectivity of the investigating officer.

45 Please describe the circumstances when your local education authority would not follow the recommendations made by the officer conducting the investigation into the complaint.

- 3 local education authorities reported that this was not relevant within their procedures and that the investigating officer was required to report findings of fact only.
- 3 local education authorities reported that the recommendations might not be followed if there were significant resource implications.
- 16 local education authorities reported that recommendations would be followed and implemented by the local education authority.

Independent consideration of complaints

Although it is often necessary that an officer of the authority investigates a complaint, complainants may perceive, justifiably or not, that an employee of the authority is unable to be entirely impartial and objective.

In social services complaints procedures, a person who is not employed by the authority is appointed to evaluate and report on the conduct of the investigation to ensure an independent element in the consideration of a complaint.

46 Do you consult with the wider community (e.g. community groups, service users, voluntary and other organisations with an interest) about the procedures by which you consider complaints and/or the recruitment of an independent person?

Only 3 local education authorities reported that they had consulted with the wider community about their complaints procedures:

- 1 had consulted with a voluntary organisation.
- 2 others had consulted with groups or individuals from within the local authority or with governors and headteachers.

As no local education authorities had such procedures in place for the recruitment of independent persons, these consultations clearly did not result in changes to the recruitment process.

One local education authority reported that it was aware that such consultation occurred within the local authority social services children's service. Such good practice should be replicated within local education authorities.

47 Does your local education authority make arrangements for ensuring that the consideration of complaints has an independent element?

No local education authority had any written procedures to ensure that there is an independent element in the consideration of complaints other than those for which Independent Appeal Panels exist, such as for admissions, exclusions or the Special Educational Needs Tribunal for Wales.

Some local education authorities, as stated above, will occasionally appoint an independent investigating officer. However, the bulk of complaints against local education authorities are investigated by officers of the local education authorities considered by the director or head of service and a response is made to the complainant by the same director or head of service.

Given that, within the same local authority, the social services directorate has a statutory responsibility to ensure that there is an independent element in the consideration of complaints, it is surprising that local authorities have not widened the requirement for independent consideration of formal complaints to all other departments. In many local authorities, social services and education are within the same directorate and yet there are two separate complaints procedures in use.

48 Does your local education authority appoint an independent person to ensure the proper conduct of any investigation?

- All 22 local education authorities reported that they did not appoint an independent person.
- 2 local education authorities reported that they would consider doing so if it were deemed appropriate “in a very serious situation”.
- 2 local education authorities reported that the Independent Parental Supporter service provided by SNAP Cymru provided an independent element in the consideration of appeals concerning Special Educational Needs.

This last response is inappropriate in that appeals about Special Educational Needs do not fall within the local authority complaints procedure.

49 Does your local education authority provide training and on-going support for the independent person.

All 22 local education authorities reported that no training was provided. No local education authorities appoint an independent person.

50 Please give your rationale for the cases in which your local education authority does not appoint an independent person.

Several local education authorities reported that their officers were sufficiently objective and that it was therefore unnecessary to have an independent element to the consideration of complaints. One local education authority stated: “Each formal investigation does not require an independent person. The officer appointment is neutral”. These responses are surprising and worrying. Officers appointed to investigate a complaint involving colleagues within their own department will be placed in a difficult position. They will also find it hard to be entirely objective and have difficulty in viewing the complaint from the complainant’s perspective. More importantly, complainants will not perceive that their complaint has been processed objectively if the complaint is investigated, considered and the decision conveyed to them by an officer from the department against which they have complained.

One local education authority said: “If they were not fully aware of all the details of the case they

would not be in a position to draw a conclusion". As stated earlier, an independent person is not required to draw conclusions, their role is to comment on the fairness and objectivity of the investigation. In **Telling Concerns**, social services, who have a wealth of experience of the involvement of independent persons, never suggested that an independent person was not fully able to contribute to the processing of a complaint.

51 Who (job title) informs a complainant of the local education authority's response to their complaint?

- 10 local education authorities reported that the director or another senior officer of the local education authority would inform the complainant.
- 6 local education authorities reported that the complaints officer would inform the complainant.
- 5 local education authorities reported that the investigating officer would inform the complainant.
- 1 local education authority reported that the officer who had received the complaint would respond to the complainant.

52 How is this response made? Please include examples of how a response would be made to a child.

- 4 local education authorities reported that the response would be made in writing.
- 18 local education authorities reported that if the response were to a child they would respond both verbally and with a letter.
- 5 local education authorities said that they had never received a complaint from a child.

It is a child's right under Article 13 of the United Nations Convention on the Rights of the Child to be given an explanation about decisions that affect him or her. For this explanation to be effective, consideration must be given to the age, maturity and ability of the child. It is unlikely that a written explanation alone will be the most effective way to do this.

53 Does your local education authority's response include advice about what complainants may do if they are dissatisfied with the outcome of a complaint?

- 20 local education authorities reported that they included such advice in their response.
- 1 local education authority reported that their response did not include such advice.
- 1 local education authority reported that such advice would only be given orally.

We have commented earlier about the lack of an independent element within the complaints procedures used in local education authorities. Complainants may well feel that consideration of their complaint has been unfair. It is important that they are given advice on how to take their complaint elsewhere for further consideration.

54 Does your local education authority maintain records of formal complaints and their outcome?

All local education authorities reported that they maintained records of formal complaints.

This response is encouraging, yet, in response to question 37 in this chapter, only nine local

education authorities were able to provide figures for the number of complaints processed within stated timescales. Local authorities should review their systems for recording and retrieving information arising from the complaints process and ensure it effectively informs planning and management decisions.

Culture

Ideally, complaints are seen as a means of identifying problems and shortcomings in the services provided and can provide essential information to those engaged in the planning and development of services. For this to be effective, records of complaints and outcomes must be maintained and analysed and a channel established through which this data could be fed into the planning cycle. Staff should be encouraged to view the complaints and representations process as a learning opportunity rather than an exercise in blame.

55 How does your local education authority ensure that its culture is open and enquiring and actively encourages learning from mistakes?

This question deliberately posed a considerable challenge, a statement of commitment to an open and enquiring culture is considerably easier to obtain than an explanation of the process by which it is achieved.

- 6 local education authorities referred to the existence of their complaints procedure.
- 5 local education authorities were unable to answer to this question.
- 4 local education authorities emphasised the policy analysis of the complaints received.
- 2 local education authorities emphasised the importance of being prepared to admit mistakes.
- 2 local education authorities emphasised the need for a thorough review of each complaint.
- 2 local education authorities emphasised the importance of stimulating open discussion within the department.
- 1 local education authority emphasised the need for customer feedback.

56 How do you ensure that employees of the local education authority are supported to positively engage in the complaints procedures?

| Methods used | Number of authorities using these methods |
|---|---|
| Training sessions | 5 |
| Supportive culture of department | 5 |
| Provide copies of complaints procedure | 4 |
| Regular communication with management | 3 |
| Support and advice from named staff members | 2 |
| Unable to answer the question | 2 |
| Staff counselling provided | 1 |
| Induction training | 1 |

57 Is your local education authority able to collate and analyse information relating to complaints?

- 3 local education authorities reported that they were unable to collate and analyse information relating to complaints at departmental level.
- Of the 19 local education authorities which reported that they were able to analyse complaint information at the departmental level, 2 reported that they did not have a formal means of actually doing so.

Again, the ability to collate and analyse this information is necessary if practice and policy are to be improved.

**58 Do the issues arising from the complaints process for children and young people influence the development of practice, policy and planning?
Please comment on whether such issues are shared more widely - for example with Framework Partnerships.**

Responses to this question were mostly vague – with some local education authorities expressing an aspiration to improve the analysis of complaints and to share them more widely in future.

- 2 local education authorities reported that they had no ability to connect the information gained from the complaints process to policy formation.
- 4 local education authorities emphasised the need to feed these policy issues into the Framework Partnerships although none were able to report that this had actually happened.
- 1 local education authority reported that it fed such information to the local authority Corporate Parenting Panel.

As an aid to policy-making and planning, the information derived from an analysis of complaint outcomes is invaluable. For this process to be truly effective it needs to have a firm mechanism in place, for example a specific annual departmental meeting or report. All organisations should seek to improve the services they provide by listening to the experience of service users and the wider issues their representations reveal.

59 Does your local education authority disseminate information about the number of complaints received and how they are resolved?

- 16 local education authorities reported that they did not release any information to the public on complaints or representations received.
- 3 local education authorities reported that they did release such information to the public.
- 2 local education authorities reported that they released such information as part of a corporate report.
- 1 local education authority was unable to answer the question.

Local education authorities exist to facilitate the provision of education to children and young people - they are public agencies. Providing information to the public is a vital aspect of engaging with stakeholders, whether children, parents or teachers. Information on what issues have been raised and how they were resolved would not only demonstrate to the public the services the local education authority provides but also the openness, fairness and efficiency with which it operates. This can only be of benefit to all.

Summary

Local education authorities receive remarkably few complaints from children and young people. This is understandable when the public information that is available, as well as the processes to be followed, are not child friendly – indeed, some complaints procedures would be likely to discourage many adults from making a complaint. The comments of children and young people contained within this report should help local authorities to make their complaints procedures more accessible.

In many local education authorities there was a negative attitude towards the consideration of complaints and the more positive aspect of using lessons learned from the consideration of complaints to improve the quality of services needs to be actively promoted. However, if the lessons learned from the consideration of complaints are to be effectively incorporated into the planning and delivery of services, many local education authorities will need to improve their methods of recording complaints and their outcomes and report them both internally and to the general public.

Although most local education authorities use the corporate complaints procedure, it is often officers from the department against which the complaint is made who are charged with the investigation and consideration of the complaint. Even where the complaint is investigated by officers from another department, the lack of any independent element in the consideration of complaints is certain to cause complainants to question whether the process is fair and impartial.

Of particular concern are those children and young people placed in specialist teaching facilities far from their families. If these children were looked after by social services there would be many safeguards in place. Within the education system there are few. Many of the local education authority officers involved in this Review acknowledged these concerns and the need to provide more safeguards for these very vulnerable children and young people.

Recommendations: Complaints and Representations

Chief Executive Officers of local authorities should establish a unit (a “one-stop-shop”) which will provide a single point of contact for a child or young person to discuss an issue of concern about any one or more local authority services and, if necessary, provide these children and young people with assistance from suitably trained and experienced officers of the local authority to record a complaint or make a representation and to inform them of the progress of the complaint and its outcome.

Further duties of the officers of this unit should be to:

- a) ensure that the public are provided with information on the services the local authority provides - with information about local education authorities as a priority. This information should be provided in such a way that it is accessible to children and young people.
- b) ensure that there is “child friendly” public information available on the complaints process and to consult with a fully representative sample of children and young people in their local authority area when producing any new information. This information should specifically state that representations or complaints from children and young people are welcomed and that children, or groups of children and young people such as school councils, may make complaints on behalf of another child.
- c) make particular effort to ensure their public information and complaints procedures are promoted to children and young people from marginalised groups and to children and young people in educational placements out-of-county, both residential and non-residential.
- d) take the lead, working jointly with social services within their local authority, in developing and commissioning common advocacy services to support children and young people in residential specialist teaching facilities outside the local education authority area who may wish to make a complaint. They should also consider extending these advocacy services to pupils who wish to exercise their right of appeal against exclusion from school.
- e) ensure that any representation or complaint, both at the formal and informal stages, made by a child or young person is recorded in such a way that statistics can be produced to inform strategic planning; provide reports to a senior officer of the local education authority who is responsible for the monitoring and analysis of all complaints that involve education matters; ensure that a summary of the issues and concerns raised through the complaints procedure and their resolution is made publicly available.
- f) take the lead on amending complaints procedures as necessary to ensure that the consideration of formal complaints within all departments has an independent element

Chapter 3 Whistleblowing

Background and introduction

The term “whistleblowing” has, within a relatively short time, become part of our modern day vocabulary. This is partly due to media coverage given to some cases. Today we all know what whistleblowing means – or at least we think we do. In fact, whistleblowing and the legislation regarding it is far more complex than most people think.

There seem to be two distinct definitions of whistleblowing – in one the whistle is only blown if the malpractice is made known in a public forum or put on public record. That is not the definition used in this Review which includes the raising of concerns internally and, if necessary, in confidence.

The need to encourage and enable workers to raise concerns about malpractice in the workplace became apparent following the findings of several public inquiries into some of the major failures of the previous decade. The Waterhouse Report, ***Lost in Care***, added further impetus to the enactment of the law, finding numerous instances where staff had been reluctant to raise concerns about the treatment and welfare of children.

The Public Interest Disclosure Act 1998 came into force in July 1999. This gave legal protection to workers who felt that they had information about malpractice in the workplace, and were worried about the possible consequences to themselves if they were to speak out.

The areas qualifying for protection under the Public Interest Disclosure Act 1998 are information which the employee reasonably believes tends to show one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

- a criminal offence.
- the breach of a legal obligation.
- a miscarriage of justice.
- a danger to the health or safety of an individual.
- damage to the environment.
- deliberate covering up of information tending to show any of the above five matters.

The Act only applies to workers – not to members of the public with concerns.

The report on ***Standards in Public Life*** (the Nolan Report) recognised the important contribution which whistleblowing could make in countering inappropriate behaviour and ensuring high standards of probity. The report recommended that every local authority should introduce a procedure for whistleblowing.

The Health and Social Services Committee of the National Assembly for Wales, meeting in June 2000, prepared a response to the Waterhouse report which stated:

“4.10 ‘Lost in Care’ contains numerous examples, not only of failure to listen to children, but also of failure to listen to employees or to act on concerns raised, either through inertia or through closing of ranks. One of the prime defences against child abuse and other inappropriate hidden practices is enabling employees to voice their suspicions. Employees in the organisation are often the first to see the signs of inappropriate behaviour or that things are not as they should be. It is important that procedures are in place to ensure that employees who bring these concerns to the attention of management are treated properly, that their anonymity is preserved, they

are kept informed of progress in investigating their allegations and that all serious matters they have brought to management's attention are fully, quickly and independently investigated. Management has to take the concerns of staff working in sensitive areas seriously."

The Committee accepted and reinforced Sir Ronald Waterhouse's original recommendations:

"Every local authority should establish and implement conscientiously clear whistleblowing procedures enabling members of staff to make complaints and raise matters of concern affecting the treatment or welfare of looked after children without threats or fears of reprisals in any form."

Lost in Care, Recommendation 8

And:

"Consideration should be given to requiring failure by a member of staff to report actual or suspected physical or sexual abuse of a child by another member of staff or other person having contact with the child to be made an explicit disciplinary offence."

Lost in Care, Recommendation 9

While whistleblowing procedures are primarily intended to reassure and, if necessary, protect workers, they will also provide protection for organisations and employers. From time to time things will go wrong in any organisation and malpractice may well take place before managers become aware of it. Encouraging a culture of openness enables management to intervene at an early stage. The lack of a clear whistleblowing policy can place staff in a position where they feel they have no alternative other than to approach the media to raise their concerns. This is unsatisfactory both for the employees themselves and the organisation for which they work.

High profile disclosures to the media about any organisation can seriously undermine public confidence in other organisations which are perceived to have a similar function. The journalists' priority is to report hard-hitting news and the real impact on the public interest is rarely considered.

Although there is no legal obligation to have clear whistleblowing procedures in place, employers that do not have them are denying themselves the opportunity to have concerns raised internally and dealt with promptly without the risk of potentially damaging, wider disclosure. Research shows that whistleblowers make wider disclosures as a result of their frustration that an internal disclosure has failed to address the issue, or a perception that internal disclosure will be fruitless, coupled with their own judgement as to the consequences of not blowing the whistle.

There is a fine balance to be struck between a department promoting and extending a culture that is open to listening to concerns about the service it provides and a culture where everyone feels they are being watched and judged by their colleagues. This, however, is a manifestation of public accountability and without such accountability the most vulnerable in our society cannot be protected.

Three quarters of the children and young people who took part in this Review understandably had little knowledge of whistleblowing but were reassured that local authorities' employees would be protected if they raised concerns about malpractice in children's services.

Both this Review and the earlier Review in social services departments (published as **Telling Concerns**) consider whistleblowing in services provided to children and young people. Future reviews will extend to other areas of service provision for children and young people and will hopefully both extend the culture of openness and accountability as well as further reassure children and young people that employees who work in those services have a viable procedure for reporting any concerns they may have.

Children and Young People on Whistleblowing

The majority of children and young people who contributed to **Telling Concerns** were unaware of the term or concept of whistleblowing. The approach in this Review was firstly to ascertain the level of children and young people's awareness, secondly to inform them about whistleblowing procedures and thirdly to find out their views. Although 96 children and young people were involved in this Review process, only 25% had ever heard of whistleblowing. The concept did not at first seem relevant to them as, not being employees, they themselves were unable to "whistleblow". However, after some discussion, the young people had a number of comments to make.

"You tell on somebody when they're doing wrong and they get told off for it."

We asked children and young people a variety of questions through workshops which included various activities and enacting of scenarios.

- 75% of children and young people had never heard of the term "whistleblowing".
- 67% of children and young people felt it was important to know about whistleblowing.
- 50% of children and young people felt it was important to give their parents information about whistleblowing.

When looking at the different scenarios when whistleblowing may occur, children and young people were quite adept at spotting some adult concerns:

"It could even be a friend and if they told they might lose a friend."

"If they had to give evidence people might not come forward."

However, the majority of children and young people felt that whistleblowing was a positive thing:

"Tell somebody before it could get serious."

"Everybody including adults should have somebody to go to."

"People shouldn't be bullied, or sacked because they say that something is wrong."

Local Education Authorities - Questions and findings

Documentation

1 Does your local education authority implement a written whistleblowing policy and procedure?

- 21 local education authorities reported that they implemented a whistleblowing policy and procedure.
- 1 local education authority reported that they did not and that none existed within the local authority.
- 5 local education authorities reported that their current whistleblowing policy and procedure was under review.
- 3 local education authorities reported that they were also encouraging schools to adopt whistleblowing policies.

It was a matter for concern that one local education authority reported that they did not have a whistleblowing policy and two senior officers confirmed this at interview. Yet this local authority does have a whistleblowing policy which was provided by social services during the **Telling Concerns** Review. This serious lack of awareness is discussed further in question 4.

It is encouraging that five local authorities were reviewing their whistleblowing policies. This was a recommendation in **Telling Concerns** where the need to make whistleblowing policies more focussed on the particular needs of children and young people than had previously been the case was stressed. It is, however, disappointing that more local education authorities were unable to report that policies were under review.

It is of interest, although outside the remit of this Review, that several local education authorities expressed concerns that schools did not have whistleblowing policies in place. The autonomy of schools is such that the local education authorities cannot insist that schools adopt whistleblowing policies and there is no legal requirement for schools to do so. However, the protection offered to whistleblowers by the Public Interest Disclosure Act 1998 applies whether their employer has a whistleblowing policy or not. It can only be an advantage, both for employees and employers, to have a clear procedure through which concerns can be received internally.

In the **Clywch Report**, the Children's Commissioner for Wales made the following recommendation:

21.5 I recommend that the Welsh Assembly Government issues guidance within 6 months of the publication of this report which requires the governors of all schools, whether they be community, voluntary aided, voluntary controlled, foundation or independent schools and further education colleges to have a whistleblowing policy in place and that all teachers and non teaching staff are informed as to its operation.

This recommendation was accepted by the Welsh Assembly Government and the Commissioner will be monitoring its implementation.

2 Are the policies and procedures those of the local authority (i.e. corporate) or have they been produced within the local education authority (i.e. departmental)?

- 20 local education authorities reported that they used a corporate whistleblowing policy.
- 1 local education authority reported that it used a departmental whistleblowing policy.
- 1 local education authority reported that it corporately used the All Wales Child Protection procedures.

This last response was made by the local education authority that reported it had no whistleblowing policy and further illustrates the potential difficulties that could arise if there is insufficient understanding of the nature of whistleblowing. More worryingly, it raises concerns about the level of understanding of child protection procedures.

One local education authority reported that it was currently using a corporate policy but that it recognised that the specific needs of schools and local education authority officers required that the corporate policy be adapted accordingly. It anticipates that a new departmental policy will be implemented soon.

Another authority reported that it was adapting its policy along similar lines but that, in order to avoid any conflict or confusion, the more child-centred policy would be adopted by the local authority corporately. This would seem an entirely sensible approach. Children and young people are, after all, the end users of almost all local authority services.

Employees and other workers

3 Are employees aware that they are able to raise concerns about malpractice without fear of victimisation, harassment or retribution?

All 22 local education authorities reported, in the questionnaires, that employees are aware that they are able to raise concerns about malpractice without fear of victimisation, harassment or retribution.

However, in subsequent comments and during interviews this assertion was considerably modified:

- 2 local education authorities reported that staff “should” be aware.
- 1 local education authority reported that it was “uncertain” as to what extent staff were aware.
- 2 local education authorities reported that the policy and procedures were not widely publicised and that there was a need to ensure that more employees were made aware.

It is important that all those who are in a position to witness malpractice feel able to report it confidentially and are aware of their right not to be victimised for doing so. They also need to know that, if necessary, their identity will be protected as far as possible. Awareness amongst employees of whistleblowing procedures is essential.

4 Which of the following workers can you be sure are aware of this?

The responses to this question were as follows:

| Employees | Number of LEAs |
|--|----------------|
| Local education authority officers | 20 |
| Administrative staff | 14 |
| Teachers and head teachers and learning support staff | 13 |
| Ancillary staff such as cooks, cleaners etc | 9 |
| Trainees | 5 |
| Agency workers | 1 |
| Workers from private or voluntary organisations with whom there is a service level agreement | 1 |
| Suppliers | 0 |

One local education authority officer honestly and helpfully commented that, until participating in this Review, he was unaware of the existence of the whistleblowing policy. Senior officers in another local education authority categorically, but mistakenly, stated that there was no whistleblowing policy.

In general, it was clear that awareness and understanding of whistleblowing within local education authorities was far less than we had found within social services departments during our previous Review. The adoption of whistleblowing policies by local authorities was largely as a result of recommendations made in the Waterhouse Report, *Lost in Care*. They were intended to enhance the quality of corporate parenting of local authorities in all their services, not just those provided by social services departments.

It was reassuring, however, that local education authority officers recognised the importance of

raising awareness of whistleblowing and reporting malpractice and, for the most part, stated their commitment to reviewing their practices.

5 How is this awareness achieved?

The responses to this question were as follows:

| | |
|-----------------------------------|----|
| Induction training | 17 |
| Access to policies and procedures | 17 |
| In service training | 7 |
| Opportunities during supervision | 5 |
| Service level agreements | 2 |

Induction training is, of course, an important way of informing new staff about the whistleblowing policy and procedures, and some local education authorities reported that mention of whistleblowing was included within employees' terms and conditions. However, initial awareness may wane over the years and there is a need for reinforcement and refreshment as part of a programme of continuing professional development.

It is equally important that employees can easily access the policy and procedures. Inclusion in a Staff Handbook was reported by three authorities. Four authorities stated that the policy and procedures were available on their intranet. However, as one local education authority officer commented: "not all employees have access to the intranet".

During the Review of social services, one social services department reported regularly sending out a flyer with pay slips reminding their employees that they were encouraged and enabled to raise their concerns. It was disappointing to discover that the education department within the same local authority did not follow the same practice.

6 Where services (e.g. catering, cleaning etc.) are contracted out, do you specify that the service provider must have whistleblowing arrangements in place?

- 3 local education authorities reported that they specified this.
- 19 local education authorities reported that they did not specify this.

Four of the above local education authorities recognised that this was an area that required review.

Two local education authorities stated that, where services are contracted out, the council policy applies. However, a local education authority cannot unilaterally extend employment protection to staff who are not their employees. The Public Interest Disclosure Act 1998 is a complex area of employment law designed to enable employees to raise concerns and protect them from victimisation by their employers for doing so. When the external service provider is the employer it is doubtful whether the council would be able to guarantee the same protection.

If the contractor has formally agreed that their employees can have access to the local education authority's whistleblowing policy with respect to work the contractor is doing for the authority and that they will not victimise any of their staff for accessing it then those staff are covered under The Public Interest Disclosure Act 1998 in relation to their own employer. The reassurance must be given by their own employer, the contractor. Local education authorities should check that this reassurance forms part of that contractor's whistleblowing policy and that this information is disseminated to the contractor's employees.

7 Does your local education authority make it clear to employees that it is their duty to disclose information about malpractice?

- 17 local education authorities reported that they made it clear to employees that it is their duty to disclose information about malpractice.
- 5 local education authorities reported that they did not.

Closer examination of policies revealed that only six local education authorities policies used the term “duty” and others used wording such as “encourage”, “expected” and “responsibility”.

Four local education authorities answered the question referring to their child protection policy rather than their whistleblowing policy. This demonstrates a lack of understanding of whistleblowing, the Public Interest Disclosure Act 1998 and the interrelationship with child protection guidance, policy and procedures.

The **All Wales Child Protection Procedures**, at paragraph 2.1.1 uses the word “duty” in relation to the referral and reporting of knowledge, concern or suspicion that a child is suffering, or likely to be at risk of, harm.

As members of the Area Child Protection Committees, local education authorities should ensure that their whistleblowing policies reflect this responsibility and refer to the duty to report concerns about the welfare of children.

8 Does your local education authority consider failure by an employee to disclose information about malpractice a disciplinary offence?

- 14 local education authorities reported that they considered failure by an employee to disclose information about malpractice a disciplinary offence.
- 8 local education authorities reported that they did not consider failure by an employee to disclose information about malpractice a disciplinary offence.

One local education authority suggested that the tone of their policy was that of “encouragement” to report malpractice rather than punishment for failure to do so – the “carrot” rather than the “stick”.

Unless all relevant documentation places a **duty** on employees to report malpractice it is difficult to see how any disciplinary action can be taken against an employee who decides not to do so.

The decision to report malpractice will always be a difficult one for an employee and being merely “encouraged” will not make the decision any easier. If, however, employees see it as their **duty** to report malpractice, it will be an easier decision for them to make.

9 (a) Does your local education authority’s disciplinary policy/procedure make it clear that: Failure by an employee to disclose information about malpractice is a disciplinary offence?

- 9 local education authorities reported that failure by an employee to disclose information about malpractice is a disciplinary offence.
- 13 local education authorities reported that failure by an employee to disclose information about malpractice is **not** a disciplinary offence.

The difference between responses in questions 8 and 9 illustrates the need for policies to be cross-referenced.

One officer pointed out that “as long as the whistleblowing policy places a duty on employees to

report malpractice, disciplinary action could be taken on the grounds of either ‘disregard for policies’ or ‘negligence’.” However, it would be preferable for all policies to dovetail and cross reference, encouraging clarity and transparency in professional conduct and decision making.

9 (b) Does your local education authority’s disciplinary policy/procedure make it clear that: Harassing or victimising a whistleblower is a disciplinary offence?

- 13 local education authorities reported that harassing a whistleblower was a disciplinary offence according to the policy.
- 8 local education authorities reported that harassing a whistleblower was not a disciplinary offence according to the policy.
- 3 local education authorities reported that these matters were currently under review.
- 1 local education authority was unable to answer this question.

Closer inspection revealed that many policies quite rightly regarded **any** form of harassment as a disciplinary offence. However harassment of employees **because they have reported malpractice** should be specifically mentioned in the disciplinary policy. This would also further stress the commitment of local education authorities to protect employees who report malpractice.

10 Does your local education authority direct employees to independent sources of advice and support (e.g. trade unions, Public Concern at Work) about whistleblowing and voicing their concerns?

- 15 local education authorities reported that they direct employees to independent sources of advice and support.
- 6 local education authorities reported that they do not direct employees to independent sources of advice and support.
- 1 local education authority was unable to answer this question.

11 Please identify these sources of independent advice and support

Of those local education authorities that identified independent sources of advice:

- 14 local education authorities identified trades unions or professional associations.
- 2 local education authorities identified Public Concern at Work.
- 1 local education authority identified the Citizen’s Advice Bureau.
- 4 did not identify sources of advice.

Examination of the whistleblowing policies provided showed that two of the authorities actually directed employees to their own advisory or counselling service. One directed employees to the child protection officer. One local education authority directed employees to their Equalities Section. None of these could be described as independent.

These sources of advice are not always appropriate. Directing employees to seek advice and support from other employees within the local authority may compromise both the seeker and the giver of advice and put them both in the position of being potential whistleblowers.

If local education authorities are serious about encouraging employees to report malpractice it is

important to direct them to independent sources of advice and support. This will enable them to understand the protection offered them by the Public Interest Disclosure Act 1998 as well as to understand the steps they must take so that any disclosure they make is protected by the Act.

12 How does your local education authority respond to requests to protect the identity of a whistleblower?

- 2 local education authorities reported that this would depend on the nature of the complaint or issue.
- 4 local education authorities reported that they had not considered how they would do this.
- 16 local education authorities reported that, as far as possible, they would protect the identity of a whistleblower.

These sixteen authorities all recognised the importance of protecting the identity of a whistleblower and that, if an investigation led to a police prosecution, the identity of the person reporting concerns could not be withheld as they may be required to be a witness in court.

It is important that whistleblowers are informed at the outset of the limits to protecting their identity – preferably at the stage when they are considering whether to report their concerns. It is important their employers make this commitment to them both in any written information and verbally.

Those authorities that described reporting of malpractice by employees as “complaints” or “issues” have clearly not appreciated the difficulty of the decisions that potential whistleblowers have to make or the essential differences between complaints procedures and whistleblowing procedures.

The General Public

13 How would your local education authority respond to concerns about malpractice raised by a member of the general public who may also be a service user?

This was a question that required some explanation at the interview stage:

The Public Interest Disclosure Act 1998 applies only to employees. It does not offer protection to members of the public who may raise concerns and they cannot be considered as whistleblowers.

Nevertheless, those in receipt of services or whose children receive services from the local education authority could be in a position to be victimised for raising a concern of malpractice through having services withdrawn or altered. It is necessary that they are reassured that this will not happen. Children and young people also need to know that, if they ask an employee of the local education authority to raise concerns on their behalf, that person will not be victimised.

Local authorities should consider whether to amend their complaints procedures and public information in order to reassure their service users that they will not be victimised for reporting concerns of malpractice.

14. Are your local education authority’s whistleblowing procedures available and accessible to children and young people?

- 16 local education authorities reported that their whistleblowing policies and procedures were not available to children and young people.

- 3 local education authorities reported that their whistleblowing policies would be made available if children and young people requested them but all three commented that there was no child friendly version.
- 1 local education authority reported that information about whistleblowing would be given verbally.
- 2 local education authorities were unable to answer this question.

Research has shown that children and young people often worry about the person to whom they have disclosed or to whom they wish to disclose. They may be uncertain as to what will happen next. Children and young people need to know that, if they ask an employee of the local education authority to raise concerns on their behalf, that person will not be victimised.

Whistleblowing policies are rightly considered to be for the use of staff and little or no effort has been made to publicise them to children and young people.

However, it is important to ensure that children and young people receiving a service from the local education authority know about and understand the policies and procedures put in place that contribute to safeguarding their welfare. This is a means of further promoting their rights. Such information could be provided in children's complaints leaflets

15 Under what circumstances would your local education authority consider investigating anonymous allegations under the whistleblowing procedures?

- 1 local education authority reported that normally it would not investigate anonymous allegations.
- 21 local education authorities reported that they would investigate in certain circumstances.

All local education authorities made it clear that any child protection issues received from an anonymous source would be investigated.

All local education authorities suggested that it was difficult to proceed with anonymous allegations as there may be great difficulty in obtaining substantiating evidence. Other considerations in deciding whether to investigate anonymous allegations were reported to be the seriousness and credibility of the issues raised.

Any public body receiving anonymous allegations needs to reflect on why individuals feel the need to conceal their identity. They should consider whether there is a perception that the culture of the organisation is open to learning from mistakes.

Anonymous reporting of concerns may occur because the allegations are malicious and have no foundation or it may well be because the individuals fear victimisation. Clear information and assurance for employees and the public that victimisation will not be tolerated may remove the need for anonymous allegations.

Whistleblowing policies should make it clear that employees who make anonymous allegations may lose their protection under the Public Interest Disclosure Act 1998 should their identity later come to light.

Supervision

The questions in this section were included to be consistent with **Telling Concerns**. It soon became clear that the understanding of the term "supervision" within local education authorities was significantly different to that in social services.

Within social services departments it is usual for employees to have individual sessions with their

immediate line manager at regular intervals – monthly or six weekly. The purpose of these sessions is to discuss work practices and casework issues. The overall aim is to support workers in what can be stressful work conditions and to identify any immediate training needs. Performance and appraisal takes place less frequently and different procedures apply.

This type of supervision is also common within educational welfare services and youth services across Wales. The names of these services and the titles of the officers vary between authorities: educational support officer, educational social worker, pupil support officer. The term “educational welfare” is used in this Review for simplicity.

Within most local education authorities the understanding is that employees are interviewed annually and the purpose of these sessions is focussed on appraisal and performance management rather than on support for the employee. Although professional and training needs can be identified, the outcome of the sessions mainly influence employees’ performance evaluation, their promotion prospects and salary.

16 Does your local education authority have a supervision policy and procedure?

- 9 local education authorities reported that their educational welfare service officers had regular supervision sessions.
- 5 local education authorities reported that they have a supervision policy and procedure.
- 1 local education authority reported that a supervision policy had just been implemented but was unable to provide further details at that time.
- 16 local education authorities reported that they did not have a supervision policy and procedure that applied to all employees.

Closer examination showed that only one local education authority had a procedure whereby employees received regular, individual supervision sessions. The other four were actually referring to their arrangements for annual appraisal.

An annual meeting is obviously insufficient an opportunity for employees to raise concerns about malpractice and, given the link to performance evaluation promotion and salary, it would be only the most selfless employee who would raise such concerns at these meetings.

Some local education authorities commented that they have regular team meetings and that some employees raise concerns collectively during these. However, a team meeting is not always an appropriate opportunity for employees who wish to report malpractice and want their identity protected.

17 Is there a standard question during all supervision sessions that gives employees the opportunity to raise concerns of malpractice?

- All 22 local education authorities reported that there was no standard question.

This section was included as it became clear, in *Telling Concerns*, that the apposite time and place to offer employees the opportunity to share concerns they may have is during individual supervision sessions.

The inclusion of a standard agenda item, or prompt question, also ensures that employees are aware of their responsibilities with regard to reporting malpractice.

18 What procedures are in place to ensure that concerns about malpractice raised during supervision sessions are dealt with in line with your whistleblowing policy and procedures?

All 22 local education authorities reported that there was no procedure in place.

Local education authorities are invited to consider whether the recommendation made to local authority social services in **Telling Concerns** could be adapted to their needs:

Recommendation 4.12

Local authority social services should amend their supervision policy and procedures to require supervisors to ask a standard question during supervision that will give supervisees the opportunity to raise any concerns they may have about malpractice. Supervisors should be directed to discuss any concerns arising from this standard question with the designated officer for whistleblowing. The supervisor and designated officer should decide who takes the responsibility for reporting back to the whistleblower.

The designated officer for whistleblowing

Whistleblowers will need to be confident that their concerns will be dealt with sensitively and may need information about their legal protection. For these reasons, many organisations appoint a senior member of staff to implement their whistleblowing policy and handle concerns sensitively.

19 Is there a designated officer within your local education authority or local authority who is the point of contact for concerns raised under the whistleblowing procedure?

- 2 local education authorities reported that there was a designated officer within the local education authority.
- 14 local education authorities reported that there was a designated officer within the local authority.
- 1 local education authority reported that there was a designated officer within the local authority who could be clearly identified to deal with issues relating to children (Children's Rights Officer).
- 5 local education authorities reported that there was no designated officer.

Again, some local education authorities referred to child protection officers in their response to this question but these officers were not named as designated officers within the whistleblowing policies.

Corporate designated officers were reported to be:

- Monitoring Officer
- Director of Finance
- Head of Personnel
- Chief Executive
- Human Resources Section
- Children's Rights Officer

These officers must receive sufficient child protection training to ensure they can speedily

activate any child protection procedures when reports of malpractice include concerns relating to the welfare of children. To do this while operating within the whistleblowing procedures and protecting the identity of the whistleblower could prove problematic.

Designated officers who work in another department of the local authority, and who may often be situated in completely different offices, may not be the most effective in facilitating and enabling employees to raise concerns. The necessity to report concerns outside their own department may result in conflicting loyalties.

20 How are employees and other workers informed of this person?

- The 17 local education authorities that reported that there was a designated officer for whistleblowing, reported that employees and other workers were informed about this officer through access to policies and procedures.
- 2 of the above local education authorities reported that this information was also available in the staff handbook.
- 1 local education authority reported that this information was also available within the Corporate Personnel Manual.

During this Review there was acknowledgement in several local education authorities that more needs to be done to publicise the names and contact details of designated officers.

21 Have any of the designated officers received training in the Public Interest Disclosure Act 1998 and in working with whistleblowers?

- 5 local education authorities reported that the designated officers had received training in the Public Interest Disclosure Act 1998 and in working with whistleblowers.
- 1 local education authority reported that the designated officer had received training in grievance and disciplinary procedures.
- 15 local education authorities reported that the designated officers had not received such training.
- 1 local education authority was unable to answer this question.

Only two of the local education authorities reporting that training had occurred were able to provide details. One other reported that it “believed” that training had taken place.

Dealing with concerns of malpractice raised by employees requires both interpersonal skills and knowledge of the Public Interest Disclosure Act 1998. It is essential that officers appointed to carry out these duties receive adequate training.

Reporting back to the whistleblower

22 Who is responsible for reporting the outcome of an investigation to the whistleblower?

Responses to this question were as follows:

| Responsible Person Reported | Number of LEAs reporting |
|---|--------------------------|
| Investigating Officer | 8 |
| Chief Executive or a representative | 3 |
| Head of Service or Director | 3 |
| Human Resources section | 2 |
| The individual to whom the concern was reported | 2 |
| Monitoring Officer | 1 |
| The Council | 1 |
| Relevant officer | 1 |
| Unsure | 1 |

If a whistleblower feels that his/her concerns have not been properly addressed internally, he/she may well feel that he/she has a duty to take the matter elsewhere. It is important that whistleblowers are kept informed about the investigation of their concerns and, if they remain dissatisfied, that they receive accurate and timely information about the options for pursuing their concerns externally.

23 Are there any circumstances in which the outcome of an investigation would not be reported to the whistleblower?

- 8 local education authorities reported that there were some circumstances in which the outcome of an investigation would not be reported to the whistleblower.
- 12 local education authorities reported that there were no circumstances in which the outcome of an investigation would not be reported to the whistleblower.
- 2 local education authorities reported that they were unsure.

If the whistleblower is assured that the matter has been properly and fully addressed internally, the need to take the matter further is removed. Outcomes of whistleblowing investigations may well, for example, result in changes to the working practice which gave rise to the concerns. The whistleblower would then be able to see practical and positive results from raising the concern.

One example of outcomes that would not be reported would be the details of any disciplinary action which had been taken against a staff member as a result of the investigation. This would be a confidential matter between employee and employer.

24 Are there any external agencies or prescribed regulators to which you would direct employees with whom they could raise their concerns if they felt that an internal investigation had not completely addressed them?

The responses to this question were as follows:

| Agency | Number of LEAs reporting | Is this a Prescribed Person or Independent/Legal Adviser? |
|---------------------------------------|---------------------------------|--|
| Trades Union or Professional Body | 8 | Independent/Legal Adviser |
| Local Government Ombudsman | 6 | Neither |
| Audit Commission | 5 | Prescribed Person |
| Police | 4 | Neither |
| Care Standards Inspectorate for Wales | 3 | Prescribed Person |
| Welsh Assembly Government | 2 | Neither |
| Public Concern at Work | 2 | Independent/Legal Adviser |
| Social Services Inspectorate | 1 | Neither |
| Local Council member | 1 | Neither |
| Citizen's Advice Bureau | 1 | Independent/Legal Adviser |
| Children's Commissioner for Wales | 1 | Prescribed Person |
| Local Authority Monitoring Officer | 1 | Neither |
| Child Protection Officer | 1 | Neither |

Note: The column on the right is an analysis of the legal status the reported agencies.

The Public Interest Disclosure Act 1998 confirms that workers may safely seek legal advice on any concerns they have about malpractice. This includes seeking advice from Public Concern at Work, which is designated a legal advice centre by the Bar Council and, of course, from the legal representative of their trade union or professional body.

The Act also protects disclosures made in good faith to regulators who have a prescribed person status under the Public Interest Disclosure (Prescribed Persons) (Amendments) Order 2003 where the whistleblower reasonably believes that the information and any allegation are substantially true. These regulators, who have prescribed person status, have legal powers to independently investigate the concerns raised by the whistleblower. These agencies are also referred to as prescribed regulators.

The Children's Commissioner for Wales is a prescribed person in respect of matters relating to the rights and welfare of children.

A full list of prescribed persons and the matters in respect of which they are prescribed is available from the DTI website: <http://www.dti.gov.uk/er/individual/pidguide-pl502.htm#app1>

Many of the responses to this question show that whistleblowing policies can contain inaccurate information. Few employers would deny that they have a duty of care towards their employees and this would include giving them accurate advice. Training of designated officers in whistleblowing and the Public Interest Disclosure Act 1998 is strongly recommended.

25 What action would be taken by your local education authority against an employee who was found to have made malicious allegations?

All local education authorities reported that disciplinary action would be considered when an

employee was judged to have made malicious allegations.

However, when the concerns are first raised, it should be possible to discuss alternative channels with the employee, such as the grievance procedure, for pursuing any concerns. With appropriate training, the designated officer can be equipped to explore these alternatives and so avoid pursuing potentially malicious allegations through the whistleblowing procedures.

It is important that all are aware of the distinction between issues that are primarily to do with dissatisfaction between employee and employer, which should be dealt with through the grievance procedures, and matters of concern about actual malpractice that should be dealt with through whistleblowing procedures. Similarly, concerns may be raised which require child protection measures to be instigated – which must take absolute priority over any other procedures.

Record Keeping

As with information arising from complaints, concerns of malpractice may provide valuable information about services or working practices that need improvement.

26 What information does your local education authority record in relation to whistleblowing, where is the information stored and for how long is it retained?

This question proved difficult for some local education authorities as the whistleblowing policy was implemented corporately rather than within the department. Consequently, some local education authorities were unable to provide the relevant information. It was surprising that they had little knowledge of their corporate systems.

- 2 local education authorities reported that no information was stored in relation to whistleblowing.

The responses from others as to where the information was stored were as follows:

| Stored in the office of: | Number of LEAs reporting |
|-----------------------------|--------------------------|
| Not known | 9 |
| Monitoring Officer | 2 |
| Human Resources Department | 2 |
| Director or Head of Service | 2 |
| Complaints Officer | 1 |
| Audit | 1 |
| Legal Department | 1 |
| Chief Executive | 1 |
| Investigating Officer | 1 |

The responses from local education authorities who were able to provide information as to how long information relating to whistleblowing was stored were as follows:

| Information relating to whistleblowing was kept: | Number of LEAs reporting |
|--|--------------------------|
| No time limits set in policy | 3 |
| Indefinitely | 1 |
| At the discretion of the Monitoring Officer | 1 |
| At least 10 years | 1 |
| According to retention of records policy | 1 |

The responses generally to this question were disappointing. It is difficult to understand why so many local education authority officers were unable to obtain and provide the information from the appropriate department

27. How many times have your whistleblower policies and procedure been implemented in your local education authority in the Financial Year 2002 - 2003?

The responses were as follows:

| Number of instances reported: | Number of LEAs reporting |
|--------------------------------------|---------------------------------|
| 0 | 11 |
| Not known | 7 |
| 1 | 3 |
| 2 | 1 |

Only four instances of whistleblowing policies being implemented were reported across every local education authority in Wales in one financial year.

Local education authorities and local authorities are invited to consider whether this is due to the fact that their staff have no concerns to report or, more likely, that the whistleblowing policies and procedures are neither promoted by local education authorities or understood by their employees.

Summary

Children and young people were reassured when they learned about whistleblowing and felt that it gave added protection to their rights and welfare.

The corporate whistleblowing policy of the local authority applies in almost all local education authorities in Wales. However, there are several local education authorities in which even senior officers reported that they had been unaware of the whistleblowing policy until asked to participate in this Review.

Little or no effort has been made by local education authorities to publicise and promote whistleblowing policies and procedures to employees and it is therefore unsurprising that there is such a low incidence of implementation. Indeed, the lack of regular supervision sessions within local education authorities would give employees little opportunity to discuss possible changes for the improvement of services. In this respect, local education authorities are missing an opportunity to improve their services by inviting and listening to the concerns of their employees.

Should an employee of a local education authority decide to “blow the whistle”, it is, in most cases, unlikely that they will receive accurate advice from their local education authority officers or that any subsequent investigation will allow for the protection of their identity. There is considerable confusion within many local education authorities between procedures for dealing with whistleblowing and those for handling complaints or child protection issues.

During the process of the Review, many local education authority officers expressed genuine concern that there was a need to reconsider both their whistleblowing policies and the ways in which they were implemented.

Recommendations: Whistleblowing

Chief Executive Officers of local authorities should ensure that their whistleblowing policies are reviewed as a matter of urgency. The main aims of the review should be to:

- a) ensure that concerns that are raised through whistleblowing procedures about the welfare of children can be swiftly addressed. Local authorities should involve those with experience of child protection in their review.
- b) increase employees' awareness of the whistleblowing policies and publicise their whistleblowing policies so that children and young people and the public are aware of them.
- c) ensure that any contract or service level agreement with external providers specifies that the provider should have a whistleblowing policy in place which states that any employee may raise concerns of malpractice either directly with the employer, with a named officer of the local education authority, or, where appropriate, with the headteacher or governors of a school.
- d) make it clear that employees have a duty to report malpractice. This duty should be specified in the disciplinary policy, employee's code of conduct and contract of employment. disciplinary policies should be amended as necessary to specifically state that harassment of a whistleblower is a serious disciplinary offence.
- e) ensure that all relevant employees receive appropriate training in whistleblowing and the Public Interest Disclosure Act 1998. Designated officers should receive thorough training and support. Line managers should also receive training to enable them to identify and act on disclosures of malpractice.

Chapter 4 Advocacy

Introduction and background

The United Nations Convention on the Rights of the Child was ratified by the United Kingdom in 1991. Since then there has been a growing recognition that more should be done to promote and safeguard the rights of children and young people under the Convention.

Much progress has been made in Wales. The establishment of the office of the Children's Commissioner for Wales in 2001 was a significant step towards promoting and safeguarding the rights of children and young people. The Children's Commissioner for Wales Regulations 2001 uniquely impose a duty on the Commissioner, in exercising his or her functions, to have regard to the United Nations Convention on the Rights of the Child. Since 2001 Children's Commissioners have also been appointed in Northern Ireland, Scotland and recently in England.

Article 12 of the Convention reflects children's right to participation. The principle affirms that children are fully-fledged persons who have the right to express their views in all matters affecting them and requires that those views be heard and given due weight in accordance with the child's age and maturity. It recognises the potential of children to enrich decision-making processes, to share perspectives and to participate as citizens and actors of change.

The corollary of Article 12 of the Convention is a changed relationship between parents, carers, teachers and all others interacting with children and young people. These adults should be negotiators and advocates rather than simply providers or protectors. They are expected to promote processes and create opportunities to enable children and young people to have their views heard, to be consulted and to play their part in influencing decisions that affect them.

The essence of advocacy is enabling and facilitating children and young people's participation - whether as individuals or in groups. This may be realised in different ways such as befriending schemes, consultation processes, the production of public material on children and young people's rights and participation, family group conferencing or the establishment of public forums.

Local education authorities in England have been encouraged to facilitate the participation of pupils by the DfES guidance ***Working Together: Giving children and young people a say***, published in April 2004,. In this guidance, Stephen Twigg, the Minister for Schools, states:

"We want to encourage a cultural shift to ensure that children and young people can play their full role in the processes which are the bedrock of our democratic life."

If there is a recognised need for a "cultural shift" in order to facilitate children and young people's participation in public debate and consultation, more support will certainly be necessary when an individual child or young person has a complaint or a dispute with an authority. It is in these situations that independent advocacy services are essential.

Children and young people have repeatedly stressed the need for their advocates to be independent from the agencies which provide them with services. It is necessary for all those concerned with the provision of advocacy services to further consider the various means through which advocacy services are currently funded and provided to ensure both their independence and sustainability.

As the rights of children and young people are increasingly recognised, there will be a growing need for independent advocacy services. In January 2004 the Welsh Assembly Government amended the regulations which govern exclusion from school so that pupils in secondary schools now have the right of appeal against exclusion – a right which only their parents had previously. Guidance on the new regulations, ***Circular 1/2004: Exclusion from Schools and Pupil Referral Units*** states:

“2.4 Where pupils of compulsory school age are not accompanied by their parents the LEA should endeavour to obtain the services of an advocate to speak on behalf of the pupil. This is particularly important where pupils may be considered not to have sufficient maturity or capacity to represent themselves effectively.”

The Welsh Assembly Government published the **National Standards for the Provision of Children's Advocacy Services** in February 2003. These standards represent a significant step forward in setting out the minimum levels of service that children and young people can expect from professionals providing advocacy services.

The Welsh Assembly Government has formed the Review of Advocacy Services for Children and Young People in Wales Task and Finish Group; this taskforce is seeking to develop a framework to plan, develop and review advocacy practices at all levels.

In **Telling Concerns**, the Children's Commissioner for Wales recommended (Recommendation 5.7) the establishment by the Welsh Assembly Government of a Children's Advocacy Unit. The Commissioner saw the role of the unit as working in partnership with advocacy providers and local authorities to promote the sharing of best practice in the field, develop guidance and provide training. This recommendation was accepted by the Welsh Assembly Government and the unit has been established since November 2004 with agreed terms of reference. An implementation plan is being developed and will be further informed by the research currently being undertaken by Cardiff University planned for publication in early 2005.

In a press release on 24 July 2003, Jane Hutt, the Assembly Cabinet Minister for Health and Social Services, gave the Welsh Assembly Government's response to **Telling Concerns** saying:

"Making advocacy available to all children and young people in health, social care and education settings will ensure they are better safeguarded and can expose poor practice, unfair or abusive treatment and bullying. I want this service to be available to all children across Wales but I realise this is not going to happen overnight."

As a result, we expect that advocacy services for children in local authorities will increasingly be viewed as a corporate rather than departmental matter. As we made clear in **Telling Concerns**, a corporately commissioned advocacy service makes sense from an organisational and financial point of view and, crucially, is far easier for a child to understand and use.

This chapter is intended to contribute to the process of developing advocacy services for children and young people in Wales.

Children and Young People on Advocacy

In **Telling Concerns**, the children and young people we consulted were mostly aware of advocacy services. However, within an educational setting "advocacy" is not a well-known or well used word. No assumptions were made about children and young people's awareness or understanding of advocacy in education. Our approach was:

- Firstly, to ascertain children and young people's understanding of advocacy and how well informed they were about the local education authority.
- Secondly, to inform them about advocacy and discuss what this might mean if made available to them within the local education authority.
- Thirdly, to explore, once informed, what children and young people felt were the qualities they would look for in an individual to make them the "perfect" advocate.

Only 33% of all children and young people involved in the Review process had heard of advocacy. Unsurprisingly, they had become aware of it through having previous involvement with social services. None of the other children and young people had ever come across the word "advocacy".

Once informed about the role of an advocate, children and young people were very clear on the qualities they would expect the “perfect” advocate to have:

“Friendly.”

“Understanding.”

“Knowledge of different issues.”

“Know about the laws.”

“Takes your views into consideration.”

“Trustworthy - honesty between both people.”

“Respects your views and ideas.”

“Looks good.”

“Should pass on information to the right people if it’s about serious things.”

“Keeps your views confidential.”

“Approachable.”

“Confident.”

“Work with you to decide who to speak to and what to do.”

“Intelligent.”

“Flexible.”

“Helpful.”

“Kind”

Other comments about advocacy...

The children and young people also expressed their thoughts on what an advocate should do including:

- Help you complain.
- Help you speak.
- Help you take part in things.
- Advocates should be honest.
- Advocates should talk to other people about things you say if someone might get hurt.
- An advocate should speak in whichever language the person having help uses.

And also what they shouldn’t do:

- People shouldn’t guess what you want or need; they should ask the person.
- Advocates shouldn’t make things up.
- Advocates shouldn’t tell anyone else what you say unless you tell them they can.

When asked who an advocate should be, these were some of the answers given:

- A professional person.
- A friend or relative.
- Anyone who helps you speak out about things.

Local Education Authorities - Questions and Findings

The Provision of Advocacy Services

This section is intended to elicit information on the type and range of the advocacy services provided.

1 Do all children and young people in your local authority area have access to an advocacy service in making complaints and/or general representations to your local education authority?

- Only 2 local education authorities reported that all pupils had access to an advocacy service which could assist them in making complaints and/or general representations to the local education authority.

As reported in **Telling Concerns**, looked after children and some children in need are able to access advocacy services commissioned by local authority social services children's services in pursuing a complaint even, in some local authorities, if that complaint is about the local education authority.

The key word in this question is **all**. Although the two advocacy services reported above were available to all children in the local authority area at the time we received responses to the questionnaires, one officer expressed a doubt that the advocacy service providers in their authority would be able to cope with any significant number of referrals as the service was, in his opinion, under resourced.

The other advocacy service – although well resourced at the time – has since had funding severely reduced and now is only able to offer advocacy to looked after children through social service funding.

In fact there is currently no advocacy service available to **all** children in any local authority in Wales. It became clear through this Review that local education authorities struggled to report anything positive about advocacy services specifically for children and young people in education.

Children and young people are the key stakeholders in the education process. Local education authorities need to demonstrate they recognise this. Representations from children and young people should play a vital role in the improvement of education services. Advocacy services would assist by raising issues of general concern brought to them by children and young people who use the service.

2 Do specific groups of children and young people (such as children with special educational needs or children who are looked after) in your local authority area have access to an advocacy service in making complaints and/or general representations to your local education authority?

The responses to this question were as follows:

| Groups of children and young people having access to advocacy services | Reported number of local authorities providing a service to these groups |
|---|---|
| Looked After Children | 17 |
| Children with Special Educational Needs (parental service) | 13 |
| Children with a disability | 3 |
| All children and young people | 2 |
| Children on child protection register | 2 |
| Children permanently excluded | 2 |
| Young carers | 2 |
| Children in Need | 1 |
| Young people leaving care | 1 |
| Young Offenders | 1 |
| None – No permanent service available | 1 |

Currently all looked after children and young people in Wales have access to an advocacy service commissioned by a local authority social service department. Seventeen local education authorities receive representations from this service. The five local education authorities that do not should review their practice.

Children with special educational needs do not have access to an advocacy service – their parents have access to an Independent Parental Supporter as specified in the **Special Educational Needs Code of Practice for Wales**. In twenty local authorities in Wales, this service is provided by the Special Needs Advisory Project (SNAP Cymru) who were asked for their comments on their policy and practice of providing advocacy for children and young people.

SNAP Cymru said they support the parents or carers of children and young people (birth - 25 years) where the child has or may have special educational needs or disability. They also accept self – referral from a young person over the age of 16. If a child under the age of 16 is accompanied by a professional advocate they also provide a service for them directly.

However, SNAP Cymru reported that very few young people had ever accessed this service themselves as they have been unable to attract sufficient funding to fully launch the service. Nevertheless, SNAP Cymru have adopted, as a matter of best practice, a policy of attempting to ascertain the child or young person's views whenever possible and promoting the child's needs as being paramount at all times in their delivery of the Independent Parental Supporter service.

Furthermore, SNAP Cymru operate in the field of special educational needs and disability and in some areas are also funded to support children excluded from school. They would not support a child in a complaint in other areas of local education authority services. To date, SNAP Cymru has only been commissioned by one local education authority (separately from the Independent Parental Supporter Service) to provide direct advocacy for two children with special educational needs during their statutory assessment.

It is, therefore, misleading to suggest that children and young people who have special educational needs have access to an advocacy service.

It is also of concern that only two local education authorities reported that they had made arrangements for pupils faced with permanent exclusion to access an advocate – despite Welsh Assembly Government guidance in Circular 1/2004 that they should do so.

3 Please describe the type(s) of advocacy services that are available in your local authority area:

| Types of advocacy | Number of local authorities |
|---|------------------------------------|
| Independent Parental Advisory Service (Special Educational Needs) | 22 |
| Advocacy service for Looked After Children | 22 |
| Youth Fora/Schools Councils | 3 |
| Educational Welfare Service | 3 |
| Youth Service | 3 |
| Teachers and School Staff | 2 |
| Educational Psychologists | 2 |
| Befriending Service | 1 |
| Family Group Conferencing | 1 |
| Children's Rights Officer | 1 |

A broad range of services were described as providing advocacy. All those mentioned above are able, in some circumstances, to act effectively as advocates with regard to education issues. During the interviews much anecdotal evidence was provided of effective advocacy for children by local education authority officers, educational welfare officers and children's rights officers - as well as teachers and school staff. It was less clear whether they would be willing to support a child in a complaint against their own employers.

While it may not always be necessary for an advocate to be independent, it will always be necessary for an independent service to be available should a child require support to make a complaint. The term "independent" is used to refer to an advocate who has a clearly defined and understood role in assisting a child or young person to present their views and wishes. If the role of the advocate is agreed and defined in advance, there need be no tension between the advocate and those who provide funding for the service.

The Welsh Assembly Government's publication **National Standards for the Provision of Children's Advocacy Services** states at Standard 6:

"Advocacy will only be used, and is only possible, if children and young people are confident that advocates are acting exclusively on their behalf and have no potential or actual conflicting interests or pressures."

Telling Concerns states:

The term advocacy has been used to refer to the practice of representing a child or young person, of providing them with advice and support, and of conveying their needs and wishes to the appropriate local authority. It has also been used to encompass a wide range of related services. These may include befriending schemes, consultation processes, the production of public material on children and young people's rights and participation, family group conferencing or the establishment of public forums.

The principle of helping the voice of children and young people to be heard may remain constant, yet the interpretation of this principle in practice, in the exercise of rights and in access to services, will always be open to discussion.

The responses to this question as tabulated above reflect the differing interpretations of the term “advocacy” in different local education authorities. For example, only one local education authority referred to Family Group Conferencing in their response and yet this service operates within several local authorities in Wales. There is similarly more than one children’s rights officer.

It is important that local education authorities share a common understanding of what they mean by “advocacy services for children and young people”.

4 Who provides advocacy services for children and young people within your local authority area?

The responses to this question were as follows:

| Advocacy providers | Number of local authorities |
|---------------------------|------------------------------------|
| SNAP Cymru | 20 |
| NSPCC | 4 |
| NYAS | 3 |
| NCH Cymru | 2 |
| Tros Gynnal | 2 |
| BILD | 1 |
| RNID | 1 |
| Citizen Advocacy | 1 |
| Spurgeons | 1 |

NSPCC, NYAS, NCH Cymru, Tros Gynnal and Spurgeons are all advocacy providers for children and young people receiving services from local authority social services and are commissioned by the respective local authority social services.

SNAP Cymru is commissioned by local education authorities to provide the Independent Parental Support service.

BILD (British Institute of Learning Disabilities) and RNID (Royal National Institute for the Deaf) provide services for specific groups of children and their parents. These are charities and their services are not commissioned by local education authorities. Many other charities such as SCOPE and RNIB Cymru also provide support for children and families.

Citizen Advocacy is the only provider that would, resources permitting, assist children and young people in pursuing a complaint about the local education authority if required.

Access to Advocacy Services

This section is intended to elicit information about the accessibility of advocacy services.

5 To what extent is access to an advocacy service for children and young people available in the medium of Welsh?

- 10 local education authorities reported that they had bilingual leaflets available.

- 9 local education authorities reported that they had Welsh speaking advocates available to provide a service.
- 2 local education authorities reported that they would be prepared to arrange some form of simultaneous translation for any meeting if required.
- 1 local education authority reported that they were unable to offer any support through the medium of Welsh.

The 12 local education authorities that do not provide public information in Welsh, and the 1 local education authority that provided no service in Welsh should review their commitment to equal access as expressed in their Welsh Language Schemes.

The actual services available in Welsh were reported as follows:

| Welsh medium provision in advocacy services | Number of local authorities providing a Welsh medium service |
|--|---|
| Bilingual leaflets | 10 |
| Bilingual advocates. | 9 |
| Simultaneous translation available | 2 |
| Did not know | 9 |
| No service at all in the medium of Welsh | 1 |

The intimate nature of any discussion with an advocate makes it essential that the child or young person can use their preferred language – especially younger children. The first contact with a service is particularly important in establishing the child's confidence and trust and in demonstrating that the service meets their needs.

The use of translation services and simultaneous translation introduces more adults into children and young people's private affairs. Simultaneous translation is not a desirable option for advocacy and local authorities and advocacy providers must implement their Equal Opportunities policies to ensure that children have access to a bilingual advocate. While the provision of Welsh language services is a legal requirement, there are also implications for children whose first or preferred language is other than Welsh or English, and efforts must be made to meet all language and communication needs.

Given that all local education authorities in Wales have seen the need to provide Welsh language primary schools and 17 have provided Welsh language secondary schools, it is of concern that so many local education authorities were unable to report that advocacy services were available in the Welsh language.

6 Has your local education authority ensured that children and young people from marginalised groups such as children and young people from ethnic minorities, children with disabilities and younger children, are able to access advocacy services?

- 18 local education authorities reported that they had made no specific attempt to ensure that children and young people from marginalised groups were able to access advocacy services.
- 2 local education authorities reported that they had a specific staff member liaising with the gypsy and traveller community but were unclear as to whether this included advocacy.
- 1 local education authority reported that they ensured that children with learning disabilities in residential placements were regularly visited – however, these visitors were not advocates.

- 1 local education authority emphasised the work of the Ethnic Minority Achievement Service but, again were unable to state whether their remit included advocacy.

One of the 18 local education authorities that had made no specific attempt to reach marginalised groups commented “They have equal access to the same level of advocacy available for all children”. This assumption is worrying and especially concerning given the extremely limited access to advocacy services in general.

Also of concern are those children and young people who are being educated outside of the local education authority – either because they are being “educated otherwise” or, as is sometimes the case, are being kept home by their parents because of a dispute with the local education authority.

Children and young people are already marginalised in our society; those who have to contend with further pressures may have very specific or differing needs from others. Local education authorities need to reassess how they initiate and maintain communication with children and young people – particularly those from marginalised groups.

7 Are employees in your local education authority made aware of the advocacy services available to children and young people?

- 11 local education authorities reported that they believed their employees were aware of the advocacy services available to children and young people.

| Method of informing staff | Number of local education authorities |
|----------------------------------|--|
| In-service training | 8 |
| Access to policy and procedures | 7 |
| Induction training | 2 |

If employees are not informed of the role and nature of the advocacy service available then clearly the effectiveness of that advocacy service is undermined. Employees need to know how to refer children and to respond to advocates appropriately.

8 Are children and young people made aware of the advocacy services available to them?

- 17 local education authorities believed that the children and young people who were entitled to an advocacy service were aware of that service.

As elsewhere in this Review, local education authorities were referring to the advocacy service for children and young people receiving services commissioned by social services.

| Method of raising awareness among children and young people | Number of local education authorities |
|---|--|
| Responsibility of advocacy provider | 5 |
| Material produced for children by social services. | 5 |
| Information sent to parents of children with SEN | 3 |
| Information sent to schools | 3 |
| Responsibility of other local authority department (e.g. social services) | 1 |

It is paradoxical that so many local education authorities do not regard the provision of information about advocacy services as their responsibility. Raising awareness of the advocacy services available and inspiring confidence in children and young people is an important task for

the local authority and the advocacy provider and should be a collaborative effort. This effort could be effectively coordinated through the Children and Young People Framework Partnerships.

9 If publicity material is produced, do children and young people assist or participate in its production?

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

- 10 local education authorities reported that they were aware that children and young people had been involved in the production of publicity material to advertise the advocacy service provided by social services.

Telling Concerns states:

Children and young people are best placed to decide how such information can be made accessible to them and their peers. Moreover, the process of designing such material can often act as a catalyst to the establishment of a community of interest, of benefit to both the children and young people and the local authority.

The Service Level Agreement

This section looks at the arrangements that local education authorities may have with advocacy providers. The arrangements are usually set out in the form of a written contract, or agreement, that should detail the working practices, describe exactly how and to whom the services will be provided.

Telling Concerns says of service level agreements between advocacy providers and local authority social services:

They are potentially a useful tool in the development of advocacy services. The majority of the Agreements were entirely concerned with financial arrangements, and the processes for monitoring and review of the service, without adequately describing exactly what was to be delivered or the form of advocacy to be used... However, the existence of a dynamic service agreement, that contains measurable objectives and targets, is crucial in the provision of an acceptable and efficient service for service provider, commissioner and client base.

10 Please provide copies of all service level agreements with external providers of advocacy services.

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

- 12 local education authorities reported that they knew of a service level agreement existing with an advocacy provider. In all of these cases the service level agreement was between the social services department of the local authority and the advocacy provider.

Several local education authorities referred to a service level agreement for the Independent Parental Supporter service to parents of children with special educational needs. As discussed earlier, this does not fall within the scope of this Review.

Local authorities should corporately consider the commissioning of an advocacy service for children and young people. It may be that one department takes the lead in the commissioning process, in operational matters and in the process of monitoring and review. However, the potential interaction of other departments with the advocacy service needs to be considered. Local authority employees will need to know how to refer children and also to respond to advocates as appropriate.

11 Within the service level agreement is there an agreed protocol or policy on what information or personnel an advocate may have access to on behalf of their client?

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

Inevitably, advocates for looked after children will often need to support them in making representations to local education authorities. The responses to this question refer to the protocols established by local authority social services.

- 7 local education authorities reported that they worked to an agreed protocol or policy on what information or personnel an advocate may have access to on behalf of their client.

This question was included as because of difficulties that have arisen in relation to requests from advocates to access the child's personal file, or senior members of staff in the agency. It is clearly preferable from an organisational point of view as well as for the child if these matters are understood in advance.

12 Does the service level agreement specify whether it is the local authority, service provider or the child who determines the work of the advocate once appointed?

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

- 3 local education authorities reported that they used the service level agreement to determine the work of the advocate. Of these, 2 specified the advocacy provider themselves as responsible and 1 stated there was a requirement to place the child or young person at the centre of the process.

Telling Concerns states:

Children and young people may require different sorts and levels of advocacy: for example a child may wish an adult outside the local authority to explain the basis of a decision that has been made about their life, or, they may wish to make a complaint about a service or a policy and procedure, or they may wish to have the support of an adult to help them to express their views. These functions require different skills and knowledge base.

If children and young people are to feel confident about using an advocacy service, they must feel that they are not only at the centre of the process but also that they have a large measure of control over what happens. This is emphasised in **National Standards for the Provision of Children's Advocacy Services at Standard 1:**

"Children and young people are given help only if they want it. It is very important that children and young people have control over the advocacy relationship."

13 Does the service level agreement identify a member of staff in your department who is responsible for the management of advocacy services?

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

- 5 local education authorities reported that they identified a member of staff with management responsibility for advocacy services.
- In 3 of these local education authorities this was the same member of staff with responsibility for children with special educational needs.

- In 2 of these local education authorities it was a senior member of the department.
- A further 2 local education authorities reported that they identified a member of staff from another department (in both cases social service departments) who was responsible for management and liaison.

For the advocacy service provider, it is imperative to have a point of contact with an identified member of staff in the local authority at a senior level should management or liaison issues arise within any of the local authority's departments.

14 Does the service level agreement specify a minimum level of experience and/or training that you would expect advocates to possess?

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

- 6 local education authorities reported that they specified a minimum level of experience that they would expect an advocate to possess.

Most local education authorities had not considered the nature of an advocacy service in any way. It is perhaps not surprising therefore that they had not considered the experience required of an advocate. **Telling Concerns** comments on the necessary qualifications for an advocate:

The ability to build a quick rapport with a child to communicate effectively with and on behalf of a child was as important as understanding the legal and procedural frameworks within which services were delivered.

National Standards for the Provision of Children's Advocacy Services states at Standard 10.9:

"All management, staff and advocates are trained to do their jobs to a high standard. - and then lists a range of topics that should be covered in that training."

The Operation of Advocacy Services

This section is intended to elicit information regarding the operational mechanisms of the advocacy services.

15 Does your local education authority have a written policy and procedures on the provision of advocacy services for children and young people?

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

- 3 local education authorities reported that they had a written set of policy and procedures regarding the provision of advocacy services for children and young people.

Having written policy and procedures does not guarantee that the rationale for and operation of advocacy provision is clear and known to all relevant personnel but it is nonetheless a foundation for such knowledge.

16 Can children and young people directly access advocacy services or must they be referred to the agency by employees?

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

| Means of Access | No. of Local Authorities |
|--|--------------------------|
| Direct access by children and young people to social services advocacy provision | 12 |
| Parents can access the Independent Parental Supporter service on children's behalf | 2 |
| No advocacy service available | 3 |
| Unable to answer the question | 5 |

National Standards for the Provision of Children's Advocacy Services states at Standard 4:

"Any child who could benefit from an advocacy service should know of its existence and have easy access to it."

17 Does the service level agreement specify what level of confidentiality children and young people can expect from the advocacy services?

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

- 8 local authorities reported that they did not specify the level of confidentiality that children and young people could expect from the advocacy service.
- 7 local authorities reported that they did specify the level of confidentiality that a child or young person could expect.
- 7 local education authorities were unable to answer the question.

Of the 7 local education authorities that did include a reference to confidentiality in the service level agreement, further questions revealed little understanding of the potential difficulties that can arise in responding to disclosures made by children or young people alleging abuse. Such difficulties have been discussed in both the complaints and the whistleblowing sections of this report.

Identifying a threshold of significant harm across different agencies and establishing a level of understanding of this are important matters. **National Standards for the Provision of Children's Advocacy Services** suggests that the definition of significant harm should be consistent with the Area Child Protection Committee procedures and that an explanation of the policy should be made to children and young people when they first approach an advocacy service.

18 Does your local education authority keep a record of the use of advocates? If "Yes" please provide data for the financial year 2002 – 2003 including the numbers of children and young people using the advocacy service in each age range under 5, 6-10, 11-15, 16+ :

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

- 8 local education authorities reported that they could access a record of how children and young people used advocates and the advocacy service. In all of these cases the records were maintained by the social services department.

None of the local education authorities were able to provide data on the age ranges.

For the local education authorities who do not have statistics on the use of their advocacy

provision, it is difficult to understand how they can accurately monitor the arrangements that they have with the department who has commissioned the service.

19 Does your local education authority have arrangements for monitoring operation of and compliance with policy and procedures within the provision of advocacy services for children and young people?

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

- 3 local education authorities reported that they referred to a quarterly report from the advocacy provider.
- 2 local education authorities reported that they referred to fortnightly meetings.

It is important for the local authority to establish some form of monitoring system on the use of advocates. A monitoring system allows a local authority to ensure the service is performing well and to identify potential problems at an early stage.

20 Does your local education authority review the arrangements for advocacy services?

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

- 8 local education authorities reported that they reviewed advocacy provision annually.

Regular review of advocacy services is essential. The needs of children and young people themselves will change over time and the priorities of the education department may shift. Regular communication between the service provider and the local authority is important if a quality service is to be delivered.

One of the local education authorities reported that they involved children and young people in review arrangements. This is to be commended. **Telling Concerns** states:

The very purpose of advocacy is to enable the voices of children and young people to be heard. Involving children and young people in the review of their own service should be an immediate and obvious way to ensure that the service is performing the task for which it was designed.

21 Do you allow children and young people to have an advocate of their own choice such as family, friends or peers?

- 17 local education authorities responded “yes” – they allow children and young people to have an advocate of their own choice.
- 4 local education authorities responded “no” - they do not allow children and young people to have an advocate of their own choice.
- 1 local education authority reported that consideration would be given to a child's choice of advocate.

One local education authority commented: “Our view is that this is just as relevant a mechanism as formal advocacy - and in some cases far more appropriate.”

Several local education authorities cited examples of family members acting as advocates – usually parents or grandparents. One local education authority reported that they enable some

children and young people to access the Family Group Conference model.

Advocacy is about enabling the voice of the child to be heard and, if children and young people choose to have a family member, friend or peer to represent their views, then that is a choice that should be recognised. There may be a further need however for that lay person to be supported by a trained and experienced advocate and, ideally, this option should be explored.

National Standards for the Provision of Children's Advocacy Services states:

"It is important that children and young people have an advocate of their choice. This may include, for example, parents, other adult relatives, carers, social workers, teachers, friends or personal advisers. This is called informal advocacy. It may also include friends or relatives who are the same age. This is called peer advocacy. Such people should be able to look to advocacy services for advice and support in their role as advocates."

22 Where advocacy services assist children and young people in pursuing specific matters of concern and/or complaints or representations, does a mechanism exist for feeding these specific concerns into policy formation and practice?

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

- 9 local education authorities reported they had such a mechanism.

Of these 9 local education authorities:

- 4 local education authorities reported that they relied on the annual report of the advocacy provider to raise such strategic issues.
- 4 local education authorities reported that they felt this was the responsibility of specific committees or officers. Those mentioned were the Young People's Partnership Management Team, the Children's Rights Officer, the Education Management Team and the Joint Special Needs Committee.
- 1 local education authority reported that they held regular meetings with the advocacy provider for this purpose.

The process of learning from the issues that arise through advocacy is invaluable, thus the service can be improved for all children and young people.

The Wider Context for Advocacy Services

This section is intended to ascertain information about the context that advocacy services operate in and to elicit views and opinions on the future development of advocacy services.

23 Can children and young people use the advocacy services provided by your local education authority to make representations to other local authority services and agencies?

No local education authority in Wales directly commissions advocacy services for children and young people. The responses to this question refer to other services.

- 10 local education authorities responded "yes".
- 7 local education authorities responded "no".
- 5 local education authorities did not respond or responded "not applicable".

One local education authority commented “the LEA does not PROVIDE the services - it uses the services of external providers who are free to approach any service / agency / department.”

Other comments were:

- 2 local education authorities reported that their educational social work service had taken up issues on behalf of children with children's services and housing.
- 3 local education authorities reported that such issues could be pursued through the Children & Young People Partnerships.

The Children's Commissioner believes that advocacy services should be available to support children in making representations about any local authority provided service.

The next necessary step is for local authorities to enable their advocacy services to develop links with external agencies, perhaps the most immediate being health. One local education authority reported that discussions with the Local Health Board as to how to achieve this had already begun while another was aware that Children and Young People's Framework for Partnership was intending to look at this issue.

Telling Concerns recommends that:

5.19 Local authorities should develop their advocacy provision to allow children and young people to use the service to make representations about any corporate issue rather than those that exclusively relate to social service matters.

5.20 Local authorities should make the development of relationships between their advocacy provider and health organisations a priority. The needs of the child should not be unnaturally divided according to the artificial boundaries of governance.

24 Do advocacy services, within your local authority area, advocate generally on behalf of children and young people to influence service provision?

- 10 local education authorities reported that the advocacy service advocated generally on behalf of children and young people to influence service provision.

Examples given of such general issue advocacy were:

- support for young parents.
- provision for children with autistic spectrum disorder.
- participation within schools.

Telling Concerns states:

The provision of an issue-based advocacy service differs from one that exists to campaign and lobby on behalf of a particular community of interest. Both activities allow the voice of a vulnerable group to be heard and therefore fall within the broad definition of 'advocacy'. Both activities allow opinion and information on services to be communicated between the local authority and the children and young people it serves, and are of mutual benefit... Just as single issues may be used to inform the development of general policy, a group involved in advocacy provision will necessarily gain expertise in areas of collective interest and form a valuable contact point with the community of children and young people they serve.

25 Are the arrangements for the provision of advocacy services for children and young people clearly set out in your Education Strategic Plan?

- 2 local education authorities reported that arrangements for the provision of advocacy services were clearly set out in the Education Strategic Plan.
- 1 local education authority reported that they intended to include the development of advocacy in their next update to the Education Strategic plan.

However, the Education Strategic Plan of the two authorities that reported that the plan included the arrangements for advocacy services did not include the word “advocacy” and there was no mention of plans for providing children with support to make representations. In one of the plans there were examples of how the local education authority planned to “listen to the voices of their learners”. This is welcomed but it does not constitute arrangements for the provision of advocacy services.

26 Is advocacy provision for children and young people a priority service for your local authority?

- 13 local education authorities reported that they believed that advocacy provision for children and young people was a priority service for the local authority.

Of these 13 local education authorities:

- 3 local education authorities believed this was in the context of improving participation within schools.
- 3 local education authorities believed this development would be through the Children and Young People’s Framework for Partnership.
- 2 local education authorities believed that this development would be the responsibility of social services.

In **Telling Concerns**, the majority of local authority social services departments in Wales reported that advocacy provision for children was a priority and were able to provide evidence to support this assertion.

It was disappointing that the development of advocacy provision for children had not been considered in more depth by more local education authorities.

27 Have you any comment or suggestion as to how local education authorities’ relationship with advocacy services will develop over the next five years?

- 4 local education authorities emphasised that the development of advocacy provision for children had to be part of developing children and young people’s participation in schools.
- 3 local education authorities acknowledged the need for advocacy services to develop.
- 2 local education authorities were very clear that children excluded from school needed to be the next priority group to be able to access advocacy services.
- 2 local education authorities emphasised the need for a corporate approach.
- 1 local education authority emphasised the need to develop service provision in adherence to the relatively recently published **National Standards for the Provision of Children’s Advocacy**.

The poor awareness that local education authorities had of advocacy services for children and the low priority afforded to this was reflected in the responses provided to this question.

It is clear that the developing access to advocacy services for children in education will have to form part of a wider cultural shift within local education authorities as they begin to recognise children as stakeholders in the education process. Learning to respond to the voices of children and young people will be a difficult process. The Children's Commissioner for Wales hopes that the recommendations of this Review will assist local education authorities in identifying the challenges and developing their own solutions.

Telling Concerns recommends, at 5.7, the establishment by the Welsh Assembly Government of a Children's Advocacy Unit. The Children's Commissioner for Wales saw the role of the unit as working in partnership with advocacy providers and local authorities to promote the sharing of best practice in the field, develop guidance and provide training.

Telling Concerns states:

This unit could also serve as a source of practical advice for those involved in the commissioning of advocacy services... It could also examine the nature of the standard commissioning process, assessing its suitability in ensuring a service for children and young people. Such a unit could provide additional support in the monitoring and reviewing of Service Level Agreements.

The Commissioner saw the focus of the unit as being the local authority as a whole. This is particularly relevant as we continue to look at the development of children's advocacy in other sectors. In this Review we have found that advocacy provision for children in education is restricted to looked after children (who are undoubtedly a priority group) and a parental focused service for children with special educational needs.

It is clear that there needs to be a greater national impetus to develop advocacy services for children in education.

As always the availability of financial resources is an important factor. **Telling Concerns** emphasises the importance of stability in the funding streams and the need to see investing in advocacy provision as part of the wider context of empowering children and young people to participate fully in society. It is appropriate for all levels of governance to consider the extent to which they are responsible for the funding of this provision and the continuing nature of how that funding is directed to ensure both the independence and sustainability of advocacy services .

Summary

No local education authority in Wales directly commissions advocacy services that children and young people can access for support in pursuit of a complaint or representation or, indeed, for any other education issue.

This is unsurprising since there appears to be an overwhelming assumption that it is parents and carers rather than pupils who are the end users of the services local education authorities provide.

Although there are some examples of good practice, many local education authorities need to make much more effort to inform children and young people about the services the local education authority provides and to involve them in decision making processes.

There is a clear need for a cultural shift within local education authorities which would result in children and young people as well as their parents and carers being regarded as service users. It was encouraging that throughout the Review many of the local education authority officers involved recognised the need for such a cultural shift and expressed their willingness to engage with it.

It seems unlikely, however, that this change will come about within local education authorities without some external impetus. Even where there is Welsh Assembly Government guidance that pupils wishing to appeal against exclusion should be provided with an advocate by the local education authority, few local education authorities have reported that they are able to make such provision.

Increasing the availability of advocacy services to children and young people is a long-term aim of the Welsh Assembly Government. The education sector would be an appropriate focus for the next developments.

Recommendations: Advocacy

Chief Executive Officers of local authorities should consider the commissioning of an advocacy service for children as a corporate matter. Joint commissioning is an option that is worth consideration and this might best be achieved through the local Framework Partnerships with participation from the Welsh Assembly Government Children's Advocacy Unit who should monitor the arrangements for the service.

The development and commissioning of advocacy within education should be a priority and the aims conveyed clearly in the local authority's Education Strategic Plan.

Local authorities, in partnership with the advocacy provider, should ensure that the service level agreement for advocacy provision :

- a) defines the service to be provided and makes clear arrangements for the monitoring and review of that service. Any review should involve the children and young people served by the advocacy provision.
- b) contains an agreed clause on access by the advocacy provider to information and personnel.
- c) specifies a mechanism through which advocacy service providers can be involved in the local Children and Young People's Framework for Partnership and in providing input to departmental planning and development of services.
- d) includes arrangements for identifying and providing advocacy services to educationally marginalised groups of children and young people - such as those in residential educational facilities and those who wish to exercise their right of appeal against exclusion from school.
- e) includes a requirement for the advocacy provider, in partnership with the local education authority, to ensure that all relevant staff are aware of the nature and role of the advocacy provision available.

Appendix Recommendations

Recommendations: Complaints and Representations

Chief Executive Officers of local authorities should establish a unit (a “one-stop-shop”) which will provide a single point of contact for a child or young person to discuss an issue of concern about any one or more local authority services and, if necessary, provide these children and young people with assistance from suitably trained and experienced officers of the local authority to record a complaint or make a representation and to inform them of the progress of the complaint and its outcome.

Further duties of the officers of this unit should be to:

- a) ensure that the public are provided with information on the services the local authority provides - with information about local education authorities as a priority. This information should be provided in such a way that it is accessible to children and young people.
- b) ensure that there is “child friendly” public information available on the complaints process and to consult with a fully representative sample of children and young people in their local authority area when producing any new information. This information should specifically state that representations or complaints from children and young people are welcomed and that children, or groups of children and young people such as school councils, may make complaints on behalf of another child.
- c) make particular effort to ensure their public information and complaints procedures are promoted to children and young people from marginalised groups and to children and young people in educational placements out-of-county, both residential and non-residential.
- d) take the lead, working jointly with social services within their local authority, in developing and commissioning common advocacy services to support children and young people in residential specialist teaching facilities outside the local education authority area who may wish to make a complaint. They should also consider extending these advocacy services to pupils who wish to exercise their right of appeal against exclusion from school.
- e) ensure that any representation or complaint, both at the formal and informal stages, made by a child or young person is recorded in such a way that statistics can be produced to inform strategic planning; provide reports to a senior officer of the local education authority who is responsible for the monitoring and analysis of all complaints that involve education matters; ensure that a summary of the issues and concerns raised through the complaints procedure and their resolution is made publicly available.
- f) take the lead on amending complaints procedures as necessary to ensure that the consideration of formal complaints within all departments has an independent element and there are clear timescales for dealing with a complaint.

Recommendations: Whistleblowing

Chief Executive Officers of local authorities should ensure that their whistleblowing policies are reviewed as a matter of urgency. The main aims of the review should be to:

- a) ensure that concerns that are raised through whistleblowing procedures about the welfare of children can be swiftly addressed. Local authorities should involve those with experience of child protection in their review.
- b) increase employees’ awareness of the whistleblowing policies and publicise their whistleblowing policies so that children and young people and the public are aware of them.

- c) ensure that any contract or service level agreement with external providers specifies that the provider should have a whistleblowing policy in place which states that any employee may raise concerns of malpractice either directly with the employer, with a named officer of the local education authority, or, where appropriate, with the headteacher or governors of a school.
- d) make it clear that employees have a duty to report malpractice. This duty should be specified in the disciplinary policy, employee's code of conduct and contract of employment. disciplinary policies should be amended as necessary to specifically state that harassment of a whistleblower is a serious disciplinary offence.
- e) ensure that all relevant employees receive appropriate training in whistleblowing and the Public Interest Disclosure Act 1998. Designated officers should receive thorough training and support. Line managers should also receive training to enable them to identify and act on disclosures of malpractice.

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Bibliography

ALL WALES AREA CHILD PROTECTION COMMITTEES, *All Wales Child Protection Procedures*. Available: http://www.allwalesunit.gov.uk/media/pdf/Child_Protection_ENGLISH.pdf

AUDIT COMMISSION (1999). *Held in Trust: the LEA of the Future. National Report*. London: Audit Commission.

AUDIT COMMISSION (2002). *Special Educational Needs: a Mainstream Issue*. London: Audit Commission. Available <http://www.wales.gov.uk/subchildren/content/advocacy-doc-e.pdf>

BERRIDGE, DAVID (1997). *Foster Care - A Research Review*, London, The Stationery Office.

CARLILE, A (2002). *Too Serious a Thing: The Review of Safeguards for Children and Young People Treated and Cared for by the NHS in Wales*, Cardiff, National Assembly for Wales.

Children Act 1989

CHILDREN'S COMMISSIONER FOR WALES (2003). *Telling Concerns, Report of the review of the operation of complaints and representations and whistleblowing procedures and arrangements for the provision of children's advocacy services*. Available: <http://www.childcomwales.org.uk/publications/telling%20concerns.pdf>

CHILDREN'S COMMISSIONER FOR WALES (2004) *Clywch, Report of the Examination of the Children's Commissioner for Wales into allegations of child sexual abuse in a school setting*. Available: <http://www.childcomwales.org.uk/clywch/clywch.pdf>

Data Protection Act 1998

DAWSON, S (2000). *Whistleblowing: a broad definition and some issues for Australia*, Victoria University of Technology.

DEPARTMENT FOR EDUCATION AND EMPLOYMENT (2000). *The Role of the Local Education Authority in School Education*. London: DfEE.

DEPARTMENT FOR EDUCATION AND SKILLS (2002). *Working Together: Giving Young People a Say (The Participation Guidance)*.

DEPARTMENT OF HEALTH (1992). *Choosing with Care, The Report of the Committee of Inquiry into the Selection, Development and Management of Staff in Children's Homes*, London The Stationery Office.

DEPARTMENT OF HEALTH (1995). *Child Protection: Messages from Research*, London, The Stationery Office.

DEPARTMENT OF HEALTH (2001) *The Children Act Now, Messages from Research* London, The Stationery Office.

DEPARTMENT OF HEALTH (2002). *National Standards for the Provision of Children's Advocacy Services, London*, The Stationery Office.

DEPARTMENT OF HEATH (1969). *Report of the committee of inquiry into allegations of ill-treatment of patients and other irregularities at the Ely Hospital, Cardiff*, London, The Stationery Office.

FINANCIAL SERVICES AUTHORITY (2002). *Whistleblowing, the FSA & the financial services industry*, Financial Services Authority.

HEALTH AND SOCIAL SERVICES COMMITTEE, NATIONAL ASSEMBLY FOR WALES (June 2000). *HSS-12-00 Response to Lost in Care - the Waterhouse Report*, Cardiff, National Assembly for Wales.

HER MAJESTY'S INSPECTORATE FOR EDUCATION AND TRAINING IN WALES AND AUDIT COMMISSION (2003). *Local Education Authority Services in Wales: a Framework for Inspection*. Cardiff, Estyn.

HUNT, G; ed, (1998). *Whistleblowing in the Social Services: Public Accountability & Professional Practice*, London, Arnold.

JONES, ADRIANNE, CBE (1996). *Report of the Examination Team on Child Care Procedures and Practice in North Wales*, London, HMSO.

LEBACQ, M ET AL (2002). *Wishes and Welfare A study of the Role of Adults who Advocate*, in Representing Children, Volume 15 No.1, National Youth Advocacy Service.

LORD WILLIAMS OF MOSTYN (CHAIRMAN) (1996). *Childhood Matters. Report of the National Commission of Inquiry into the Prevention of Child Abuse*, NSPCC.

NATIONAL ASSEMBLY FOR WALES (1999). *School Admission Appeals the National Assembly for Wales Code of Practice*. Available:
www.wales.gov.uk/subieducationtraining/contentlguidance/admiss/appeals_e.pdf

NATIONAL ASSEMBLY FOR WALES (1999). *The Children First programme in Wales: Transforming Children's Services*. Available www.wales.gov.uk/subichildren/content/childrenfirst.htm

NATIONAL ASSEMBLY FOR WALES (2000) *Working Together to Safeguard Children A guide to inter agency working to safeguard and promote the welfare of children*. Cardiff: National Assembly for Wales.

NATIONAL ASSEMBLY FOR WALES (2000). *Children and Young People a Framework for Partnership*, Available: <http://www.childpolicy.org>, March. 2004.

NATIONAL ASSEMBLY FOR WALES (2000). *Extending Entitlement Supporting Young People in Wales Report by the Policy Unit Cardiff*, National Assembly for Wales.

NATIONAL ASSEMBLY FOR WALES (2001). *Listening to People: A consultation on improving Social Services Complaints Procedures*, Cardiff: National Assembly for Wales.

NATIONAL ASSEMBLY FOR WALES (2001). *The Learning Country: a Paving Document. A Comprehensive Education and Lifelong Learning Programme to 2010 in Wales*. Cardiff, National Assembly for Wales.

NOLAN (1995). *Summary of the Nolan Committee's First Report on Standards in Public Life*, London, The Stationery Office.

PADBURY, P AND FROST, N (2002). *Solving Problems in Foster Care: Key issues for young people, foster carers and social services*, The Children's Society.

PUBLIC CONCERN AT WORK (1999). *Delivering Good Management. Whistleblowing Policy Pack*, London, Russell Press.

PUBLIC CONCERN AT WORK (1999). *Policy Into Practice: A Review of the Activities of Public Concern at Work at the Millennium*, London, Russell Press.

Public Interest Disclosure Act 1998

- QUALIFICATIONS, CURRICULUM AND ASSESSMENT AUTHORITY FOR WALES (2000). *Desirable Outcomes for Children's Learning Before Compulsory School Age*. Cardiff, ACCAC.
- Report to The Baring Foundation on Independent Advocacy in Wales* (2002) Baring Foundation.
- Response to 'Listening to People' (2001)*, The Children's Society
- ROBBINS, DIANA (1990). *Child Care Policy: Putting it in Writing - A Review of English Local Authorities' Child Care Policy Statements*, Department of Health, Social Services Inspectorate.
- SKINNER, A. (1992). *Another Kind of Home: A Review of Residential Child Care Social Work*, Services Inspectorate, Edinburgh, HMSO.
- SMITH, DAVID R (1993). *Safe from Harm. Voluntary Organisations - A Code of Practice for Safeguarding the Welfare of Children in Voluntary Organisations in England and Wales*, Home Office.
- The Children Act 1989 Guidance and Regulations Volume 3 Family Placements*, 1991, London, HMSO.
- THE WELSH OFFICE (1999). *School Admissions Welsh Office Code of Practice*. Available: www.wales.gov.uk/subieducationtraining/content/guidance/admiss/admsns_e.pdf
- THOMAS, N (2002). *Children, Family and the State Decision Making and child participation*. Bristol, The Policy Press.
- United Nations Convention on the Rights of the Child*, (1990)
- UTTING, SIR WILLIAM (1991). *Children in the Public Care. A Review of Residential Child Care*, London, HMSO.
- UTTING, SIR WILLIAM (1997). *People Like Us. The Report of The Review Of The Safeguards For Children Living Away From Home*, The Department of Health, The Welsh Office, HMSO, Norwich.
- WALLIS, L AND FROST, N (1998). *Cause for Complaint. The Complaints Procedure for Young People in Care*, The Children's Society.
- WATERHOUSE, R (2000). *Lost in Care - Report of the Tribunal of Inquiry into the Abuse of Children in Care in the Former County Council Areas of Gwynedd and Clwyd since 1974*, London, The Stationery Office.
- WELSH ASSEMBLY GOVERNMENT (2002). *Extending Entitlement Support for 11 to 25 Year Olds in Wales Direction and Guidance*. Available: [www.wales.gov.uk/organicabinet/SubCmteeMeetings/children/papers/cyp\(03-04\)27a-annex.pdf](http://www.wales.gov.uk/organicabinet/SubCmteeMeetings/children/papers/cyp(03-04)27a-annex.pdf)
- WELSH ASSEMBLY GOVERNMENT (2002). *Learning Country Learning Pathways 14-19*, Cardiff, National Assembly for Wales.
- WELSH ASSEMBLY GOVERNMENT (2003). *LEA/School Partnership Agreements. Consultation Document*, Cardiff, National Assembly for Wales.
- WELSH ASSEMBLY GOVERNMENT (2003). *National Standards for the Provision of Children's Advocacy Services*.
- WELSH ASSEMBLY GOVERNMENT (2003). *Pupil Involvement in Decisions that Affect Them and Establishment of School Councils in Primary Secondary and Special Schools*. Available: www.wales.gov.uk/subieducationtraining/content/Consultation/schools-councils-proforma-e.rtf [March, 2004]

WELSH ASSEMBLY GOVERNMENT (2004), *Exclusion from Schools and Pupil Referral Units Circular No:1/2004*, January 2004.

WELSH OFFICE. EDUCATION DEPARTMENT (1999). *Code of Practice on LEA-School Relations*, Cardiff Welsh Office, Education Department.

WHITBOURNE ET AL (2000). *What is an LEA for? An analysis of the functions and roles of the local education authority*, 2nd edition (2004) NFER.

WILLIAMSON, H & PITHOUSE, A (1999). *Advocacy Services for Children and Young People in Wales*, Welsh Office.

Working Together under the Children Act 1989 - A guide to arrangements for inter-agency co-operation for the protection of children from abuse. 1991, Home Office.